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REPORTS

FROM

COMMITTEES:

EIGHT VOLUMES.

—*(6.)*—

PUBLIC PROSECUTORS;

SANDHURST ROYAL MILITARY COLLEGE.

Session

12 *December* 1854 — 14 *August* 1855.

VOL. XII.

1854-5.

REPORTS FROM COMMITTEES:

1854–5.

EIGHT VOLUMES:—CONTENTS OF THE

SIXTH VOLUME.

N. B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Report; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for The House of Commons.*

PUBLIC PROSECUTORS:

481. REPORT from the Select Committee on the PUBLIC PROSECUTORS BILL; together with the MINUTES of EVIDENCE, APPENDIX, and INDEX - - - - - - - - - - - p. 1

SANDHURST ROYAL MILITARY COLLEGE:

317. REPORT from the Select Committee on SANDHURST ROYAL MILITARY COLLEGE; together with the PROCEEDINGS of the COMMITTEE, MINUTES of EVIDENCE, APPENDIX, and INDEX - - - 311

PUBLIC PROSECUTORS:

REPORT - - - - - - - - - - - - p. 3
PROCEEDINGS - - - - - - - - - - 4
MINUTES OF EVIDENCE - - - - - - - - 9
APPENDIX - - - - - - - - - - - 248
INDEX - - - - - - - - - - - - 263

SANDHURST ROYAL MILITARY COLLEGE:

REPORT - - - - - - - - - - - - 313
PROCEEDINGS - - - - - - - - - - 321
MINUTES OF EVIDENCE - - - - - - - - 331
APPENDIX - - - - - - - - - - - 503
INDEX - - - - - - - - - - - - 529

REPORT

FROM THE

SELECT COMMITTEE

ON

PUBLIC PROSECUTORS;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX AND INDEX.

Ordered, by The House of Commons, *to be Printed,*
9 *August* 1855.

Jovis, 17° *die Maii*, 1855.

Ordered, That the subject of the Public Prosecutor's Bill be referred to a Select Committee.

Lunæ, 4° *die Junii*, 1855.

Committee nominated of,—

Mr. John George Phillimore.	The Lord Advocate.
Mr. Attorney-General.	Mr. Solicitor-General for Ireland.
Mr. Watson.	Mr. Walpole.
Mr. William Ewart.	Mr. Napier.
Sir Frederic Thesiger.	Lord Stanley.
Mr. Philipps.	Mr. Miles.
Sir George Grey.	

Ordered, That Five be the quorum of the Committee.

Jovis, 7° *die Junii*, 1855.

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Jovis, 9° *die Augusti*, 1855.

Ordered, That the Committee have power to Report their Observations, together with the Minutes of Evidence taken before them, to The House.

REPORT - - - - - - - - - - - - - p. iii
PROCEEDINGS OF THE COMMITTEE - - - - - - - p. iv
MINUTES OF EVIDENCE - - - - - - - - - - p. 1
APPENDIX - - - - - - - - - - - - - p. 240
INDEX - - - - - - - - - - - - - - p. 253*

REPORT.

THE SELECT COMMITTEE to whom the subject of the PUBLIC PROSECUTOR'S BILL was referred, and who were empowered to Report their Observations, together with the Minutes of Evidence taken before them, to The House;——HAVE considered the matter to them referred, and have agreed to the following REPORT:—

YOUR COMMITTEE have taken the Evidence of various persons well qualified to give information on the important subject of their inquiries. Considering, however, the advanced period of the Session at which the last portion of the Evidence was received, and the absence from town of several Members of the Committee, Your Committee think it most expedient to content themselves for the present with presenting to The House the Evidence they have collected. They recommend that they should be permitted to resume their labours at the commencement of next Session.

9 *August* 1855.

PROCEEDINGS OF THE COMMITTEE.

Jovis, 7° die Junii, 1855.

MEMBERS PRESENT:

Mr. Phillimore.	Mr. Philipps.
Mr. Watson.	Lord Stanley.
Mr. Ewart.	

Motion made (Mr. *Ewart*) and question, "That Mr. Phillimore do take the chair," put, and agreed to.

The Committee deliberated on the course of proceeding.

Ordered, That the Chairman do move The House for power to send for Persons, Papers, and Records.

[Adjourned till Tuesday next, at One o'clock.

Martis, 12° die Junii, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Philipps.	The Lord Advocate.
Mr. Ewart.	Mr. Walpole.
Lord Stanley.	M. Watson.
Mr. Attorney-General.	

The Right Hon. Lord *Brougham and Vaux*, and the Right Hon. *James Moncreiff*, Lord Advocate of Scotland, examined.

[Adjourned till Thursday next, at Twelve o'clock.

Jovis, 14° die Junii, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Watson.	Mr. Miles.
Lord Stanley.	Mr. Ewart.
Mr. Philipps.	Mr. Attorney-General.

Mr. *Thomas Flower Ellis*, Mr. *Charles Sprengel Greaves*, Q. C., and Mr. *Robert Marshall Straight*, examined.

[Adjourned till Tuesday next, at Twelve o'clock.

Martis, 19° *die Junii*, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Ewart.	Mr. Miles.
Lord Stanley.	Mr. Walpole.
Mr. Philipps.	

Mr. *Thomas Flower Ellis*, further examined.

Mr. *Henry E. Davies*, the Right Hon. Lord *Campbell*, Lord Chief Justice of England, Mr. *Bertie Markland*, Mr. *Hamilton Richardson*, Mr. *James Hemp*, and Mr. *George Leeman*, examined.

Mr. *Robert M. Straight*, further examined.

[Adjourned till Thursday next, at Twelve o'clock.

Jovis, 21° *die Junii*, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Watson.	Mr. Philipps.
Mr. Ewart.	Mr. Miles.
Lord Stanley.	Mr. Attorney-General.
Mr. Napier.	

Mr. *Henry Leigh Trafford*, Mr. *Charles Hay Cameron*, Mr. *John Hughes Preston*, Captain *Hatton*, and Mr. *Robert Barr*, examined.

Mr. *Hamilton Richardson*, further examined.

Mr. *Samuel J. Roberts*, examined.

[Adjourned till Tuesday, 26 June, at Twelve o'clock.

Martis, 26° *die Junii*, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Philipps.	Mr. Ewart.
The Lord Advocate.	Mr. Miles.
Mr. Attorney-General.	Mr. Watson.
Mr. Solicitor-General for Ireland.	Mr. Napier.

Mr. *Henry R. Reynolds*, Mr. *Francis Hobler*, The Right Hon. *J. Napier*, and Mr. *Samuel Wilkinson*, examined.

[Adjourned till Thursday next, at Twelve o'clock.

Jovis, 28° *die Junii*, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Attorney-General.	Mr. Ewart.
Lord Stanley.	Mr. Solicitor-General for Ireland.
Mr. Philipps.	Mr. Napier.
Mr. Miles.	

Mr. *Horatio Waddington*, Mr. *Samuel Robert Goodman*, Mr. *Henry Avory*, and Sir *Alexander J. E. Cockburn*, Attorney-general, examined.

[Adjourned till Tuesday next, at Twelve o'clock.

Martis, 3° *die Julii*, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Ewart.	Mr. Napier.
Mr. Solicitor-General for Ireland.	Mr. Walpole.

The Right Hon. *J. Napier*, further examined.

Mr. *George Wilkin*, and Mr. *Richard Hankins*, examined.

[Adjourned till Tuesday next, July 10th, at Twelve o'clock.

Martis, 10° *die Julii*, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Miles.	Mr. Walpole.
Mr. Ewart.	Lord Stanley.
Mr. Solicitor-General for Ireland.	Mr. Attorney-General.

The Right Hon. *James Stuart Wortley*, Recorder of London, Mr. *Henry George Horne*, Mr. *William B. Brett*, Mr. *Henry Walter*, Mr. *Augustus Compton*, Mr. *William Foote*, and Mr. *Frederick Stephen Austin*, examined.

[Adjourned till Thursday, 9th August, at Twelve o'clock.

Jovis, 9° die Augusti, 1855.

MEMBERS PRESENT:

Mr. PHILLIMORE in the Chair.

Mr. Attorney-General.	Mr. Watson.
Mr. Solicitor-General for Ireland.	Mr. Ewart.

The Committee deliberated, and agreed to report the Minutes of Evidence taken before them to The House, with a recommendation that they should be permitted to resume their labours at the commencement of next Session.

Ordered to Report, together with Minutes of Evidence.

EXPENSES OF WITNESSES.

NAME OF WITNESS.	Profession or Condition.	From whence Summoned.	Number of Days absent from Home, under Orders of Committee.	Expenses of Journey to London and back.	Allowance during absence from Home.	TOTAL Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
Mr. Bertie Markland - -	Solicitor - -	Leeds - -	3	4 8 –	6 6 –	10 14 –
Mr. Hamilton Richardson - -	Solicitor - -	Leeds - -	3	4 8 –	6 6 –	10 14 –
Captain Hatton - - -	Chief Constable of County.	Stafford -	3	3 5 –	3 3 –	6 8 –
Mr. Samuel J. Roberts - -	Solicitor - -	Chester -	3	4 6 –	6 6 –	10 12 –
Mr. Samuel Wilkinson - -	Solicitor - -	Walsall -	3	2 15 –	6 6 –	9 1 –
Mr. Henry Walter - - -	Solicitor - -	Liverpool -	3	5 – –	6 6 –	11 6 –
Mr. Frederick Stephen Austin -	Solicitor - -	Manchester -	3	4 14 –	6 6 –	11 – –
Mr. William Foote - - -	Solicitor - -	Swindon -	2	1 12 –	4 4 –	5 16 –
					£.	75 11 –

LIST OF WITNESSES.

Martis, 12° *die Junii*, 1855.

	PAGE
The Right Hon. Lord Brougham and Vaux	1
The Right Hon. James Moncreiff, Lord Advocate of Scotland	17

Jovis, 14° *die Junii*, 1855.

Thomas Flower Ellis, Esq.	22
Charles Sprengel Greaves, Esq., Q. C.	29
Robert Marshall Straight, Esq.	48

Martis, 19° *die Junii*, 1855.

Thomas Flower Ellis, Esq.	55
Henry E. Davies, Esq.	55
The Right Hon. Lord Campbell, Lord Chief Justice of England	61
Mr. Hamilton Richardson and Mr. Bertie Markland	68
James Hemp, Esq.	80
Mr. George Leeman	84
Robert Marshall Straight, Esq.	86

Jovis, 21° *die Junii*, 1855.

Henry Leigh Trafford, Esq.	88
Charles Hay Cameron, Esq.	95
Mr. John Hughes Preston	98
Captain John H. Hatton	107, 115
Mr. Robert Barr	110
Mr. Hamilton Richardson	115
Mr. Samuel Johnson Roberts	116

Martis, 26° *die Junii*, 1855.

	PAGE
Henry Revell Reynolds, Esq.	124
Mr. Francis Hobler	132
The Right Hon. Joseph Napier, M. P.	141
Mr. Samuel Wilkinson	155

Jovis, 28° *die Junii*, 1855.

Horatio Waddington, Esq.	159
Mr. Samuel Robert Goodman	168
Mr. Henry Avory	173
Sir Alexander James Edmund Cockburn, Her Majesty's Attorney-General, M. P.	184

Martis, 3° *die Julii*, 1855.

The Right Hon. Joseph Napier, M. P.	198
Mr. George Wilkin	203
Mr. Richard Hankins	204

Martis, 10° *die Julii*, 1855.

The Right Hon. James Archibald Stuart Wortley, M. P.	209
Henry George Horn, Esq.	218
William Baliol Brett, Esq.	225
Mr. Henry Walter	226
Mr. Augustus Compton	230
Mr. William Foote	232
Mr. Frederick Stephen Austin	238

MINUTES OF EVIDENCE.

Martis, 12 *die Junii*, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. William Ewart.
Mr. Attorney-General.	Mr. Walpole.
The Lord Advocate.	Mr. Philipps.
Mr. Watson.	Lord Stanley.

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

The Right Honourable Lord *Brougham and Vaux*, attending by permission of the House of Lords; Examined.

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

1. *Chairman.*] HAS your Lordship turned your attention to the subject of Public Prosecutors?—Yes, at various times, for many years past.

2. Will you be good enough to tell the Committee what your views are with respect to the appointment of public prosecutors, as to the evil which it is intended to remedy, and the means by which that evil should be remedied?—When I say that I have turned my attention to it, I ought to mention, that many years ago, I was examined before a Committee of this House upon that subject, and gave very full evidence upon it. I do not know what became of it.

3. Mr. *Attorney-General.*] In what year?—I think in 1833; but I remember inquiring afterwards, and being told that the evidence taken before that Committee had never been printed; at least that was the impression which prevailed; and that the papers were burnt in the fire the year after. I certainly went very fully into the question then. The first great evil which I think exists at present is the ineffectual provision made for the prosecution of offences. Nothing can be more ineffectual than the provision which the law, and the practice under it, now make for it. An individual is injured by either his person being attacked or by his property being invaded, and he is called upon himself to prosecute; and he is in some cases compelled to prosecute; though, generally speaking, I believe one may say that what is called "binding over to prosecute" rather means binding over to give evidence than to do anything more; it possibly comes to that practically. There is no doubt that a magistrate has the power where he pleases, in the alternative, to bind over to prosecute, or to bind over to give evidence; and sometimes, though I believe rarely, he binds over to prosecute.

4. I think he binds over generally to prosecute and give evidence?—Yes, but that I understand to mean giving evidence.

5. And by prosecuting, I understand that it is meant that the party shall go before the grand jury and prefer a bill?—Yes.

6. *Chairman.*] Does not it often happen that the policeman is bound over to prosecute, and the party injured is bound over to give evidence?—Yes; and sometimes a person would rather elect to be bound over to prosecute as well as to give evidence, in order to give him a claim for the costs of the prosecution; but I believe, substantially, you may say that binding over to prosecute rather means binding over to appear and give evidence than anything else. There is some hardship even in that, in being bound over to give evidence, for though a person's expenses are paid, yet they are paid after the trial, and upon the Court being of opinion that there was a ground for the prosecution where he was not bound over. Where he is bound over, it would be very hard indeed to refuse

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

to give him his expenses. But then, I believe there is this difference, at least the statutes take that distinction, that he may have his fair and reasonable expenses, but unless he is a poor person, he has, as I apprehend, no consideration given to him for his trouble and loss of time; if he is a poor person he has, but that is of modern date. I take it that that is really only since the 18th of George the Third.

7. Does your Lordship think that we might add to the list of the evils the danger of a poor prosecutor being induced to compromise and to waive the injury done to the public altogether?—It is possible, no doubt, that this might happen, but under that head of the escape of the offender, there is a much wider door open than that to which you refer, for it is a thing which constantly happens, that a wealthy person under prosecution buys off the witness. If the witness is under recognizances to prosecute, or to appear and give evidence, the forfeiture of the recognizance is by a wealthy party very easily settled for, and there is no prosecution.

8. Mr. *Attorney-General.*] The difficulty which I feel is this: I do not quite see how the appointment of a public prosecutor would prevent that result. If the prosecution were altogether vested in a private individual, you might buy off the private individual. Put the case where there is a public prosecutor; the public prosecutor would seek to procure the attendance of the witnesses, so as to accomplish in the end a conviction. So far as I see, it would still be as easy to buy off the witnesses as it is now to buy off the prosecutor; and I have never seen quite clearly how the appointment of a public prosecutor would prevent that mischief which arises of getting rid of the testimony?—I do not see that any provision which you could make would absolutely prevent, in all cases, that very great mischief to which we are adverting; but there is a great difference between the case of a single witness bound over to prosecute and give evidence, and he alone, therefore, being certain to appear, and all the witnesses who may be competent to prove the case and whom the public prosecutor could cast his net over and bring.

9. All the witnesses are bound over now?—All those who are before the magistrate, no doubt.

10. *Chairman.*] Your Lordship thinks that it would diminish, but that it would not prevent?—No doubt it would very greatly diminish, without wholly and absolutely preventing.

11. Would not your Lordship think that a person in the rank of a public prosecutor, instead of a policeman, would have a very considerable moral effect?—I should think so. I gave one or two instances as to the moral operation when I was examined here before, and also lately in my statement in the House of Lords. One very remarkable instance was, a case which happened at Plymouth. I think the person engaged was an anchor smith in a large way of business; a very wealthy man. Under the pressure of temporary embarrassment he had committed forgery to a large amount. He was arrested, imprisoned, and the person was bound over to prosecute in the usual way. There was no appearance at the trial. The recognizances were of course forfeited. The man had been bought off, and there was no prosecution of that offender at all. That would have been a very difficult thing in Scotland, or where there is a public prosecutor, for the person who forfeits his recognizance is perfectly known; and unless not only the recognizance had been satisfied by the person under accusation but the party who had been forged upon had been got out of the country, the prosecution must have gone on; there could have been no mode of preventing the prosecution by merely providing for the recognizance being forfeited, because the party would have been, in some degree, under the jurisdiction of the court, and liable to be called upon; the public prosecutor would not have cared a rush for the recognizance being forfeited; he would not have cared a rush even for the recognizance; in all probability there would have been no recognizance in the case of there being a public prosecutor; he would have subpœnaed the witness, and that witness must have appeared; and the only way of getting rid of that witness would have been, by removing him from the country, which one has known in certain cases; but then they were not the cases of persons of a certain rank or station, but very inferior persons who were by the parties under accusation spirited away, or induced to go abroad by the payment of a large sum, nay, by the payment of an annuity for life to those individuals.

12. Mr.

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

12. Mr. *Attorney-General.*] No doubt that does occur in certain cases?—One has known cases of that sort.

13. I quite agree that the appointment of a public prosecutor would tend, in many points of view, to improve the administration of justice, but I do not quite see how getting witnesses out of the way could be altogether prevented?—No doubt we must go by steps. Let me just put another case, which refers to parties who are incapable of being bought off in any way. There are members of the Society of Friends, Quakers, who are exceedingly hostile to the penal law as it now stands, and would have been much more hostile to it at the time I mention, when forgery was a capital offence. They are bound over to prosecute, and they forfeit their recognizance, without the party paying a farthing for it; even if there was no recognizance they would have a great reluctance to come forward; but they would be compelled to come forward. I know one case in which one of the great bill-brokers in this city had a forged bill in his possession; he refused to come forward; there was nobody except another party who had an interest in prosecuting that individual; if there had been a public prosecutor it would have made a case past all doubt.

14. *Chairman.*] I observe that in the evidence given before the Committee on Criminal Law considerable stress is laid upon the hardship to the poorer classes, saying that many cases of cruelty and violence by stepmothers to their children, and by parents to their children and to servants, are passed over altogether without notice, or with merely nominal punishment, in consequence of the want of a public prosecutor?—I think that exceedingly likely; I think a very misplaced humanity, and very often a personal delicacy towards parties, has the effect of preventing a prosecution, whereas a public prosecutor would be bound to have no such feelings, and would have none.

15. Lord *Stanley.*] Provided the facts came to his knowledge?—Of course.

16. *Chairman.*] For instance, in a case which occurred the other day, the overseers of a parish who found out that a child had been injured, would say at once to the proper authority, "It is your business to inquire into this, and to take care that it is investigated"?—I wish to be guarded in all the evidence which I am giving upon this subject, against its being supposed that I consider it at all an easy matter. I consider that it is surrounded with very great difficulties; I only hope not insuperable difficulties; but I have always felt the difficulty very strongly indeed. Lord Campbell, when the case was broached once or twice, I think, in the course of this Session and the last in the House of Lords, also felt the great want of a public prosecutor, but was staggered by the difficulties in supplying a remedy; and I cannot help feeling that there are very great difficulties. But perhaps I might mention, which I did upon that occasion, that an arrangement had been made in 1834, just before the Government was changed, for taking a step in that direction without at all introducing a legislative measure, which should give not only a public prosecutor, but what I am afraid must be a part of it, namely, a system of public prosecutors, because that is one great difficulty, that you must have not only one public prosecutor generally to superintend, but you must have locally his deputies, or in some sort his representatives. That was certainly one very great difficulty in the case. Our plan then was this: I was Chancellor, and Lord Duncannon, afterwards Lord Besborough, was Secretary for the Home Department; we had arranged everything at that time, namely, about October and November 1834, for making the experiment in this way: to take the Central Criminal Court, which has a very large jurisdiction, now extending over more than 2,000,000; and at that time it had not quite so great, but certainly a very large jurisdiction; and we proposed that in the Central Criminal Court the Treasury should employ one or more counsel, and always the same, and should give them the preparation and superintendence of prosecutions. This plan was formed upon the precedent which we had set us by the practice in some counties in England, chiefly the West Riding of Yorkshire and the counties of Durham and Northumberland. When this was mentioned in the House of Lords lately, the present Chancellor added the county of Chester also; he stated that there was an arrangement of the same sort there. The clerk of the peace singles out one counsel and gives him the general superintendence of prosecutions; the preparation of the indictment; the examination of the evidence previously, settling whether it is a case fit to be prosecuted or not, and then superintending it, and generally speaking, being the counsel at the trial; not always and not of necessity, but generally, being one of the counsel. That has been found exceedingly

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

exceedingly advantageous; and there is a great difference as respects the mode of conducting the trials and the results; the proportions of acquittals to convictions in those counties are exceedingly different, I believe, from what they are, generally speaking. I think I may include the West Riding of Yorkshire; but I am more clear about Durham and Northumberland. Mr. Losh used to be the person always employed. I ought to mention in continuance of my answer to your first question as to the advantages of a public prosecutor, that not only does the want of a public prosecutor enable the guilty to escape, but it in many cases puts persons who are not guilty upon their trial when they ought not to be so put. I consider that the responsible character of an individual public prosecutor is the best possible security against that; and that this happens, and happens very frequently, I can have no manner of doubt. There is the check of the grand jury, to be sure; but that check has been found in many cases exceedingly insufficient, from there being no individual responsibility in the grand jury from no one knowing who finds the bill. Here are 23 persons; one cannot tell which of those 23 constitute the 12 who have found the bill. The case which I am stating has occurred. I shall not easily forget a case which I mentioned in my evidence many years ago in this House, and which I stated lately in the House of Lords; a case which happened at Lancaster. Mr. Blundell, of Ince, was put upon his trial for murder, and held up his hand in the dock charged with murder. The murder which the grand jury in this instance conceived to have been committed by him was this: There was a road in repair upon his estate, and his bailiff had omitted in throwing a rope across the road in order to prevent access, to put a lantern, and an old woman coming from market at night in a donkey cart, tripped over this rope, for want of a light, and broke her neck, and unfortunately was killed. The grand jury were pleased to consider, in the first place, that this was murder; and in the next place, that it was murder by Mr. Blundell, perpetrated by the negligence of his bailiff. The case was opened before Mr. Baron Wood; the counsel had some difficulty in keeping his countenance long enough to open the case; however he did get through a statement of the facts pretty nearly as I have mentioned them. Mr. Baron Wood immediately said "Are the grand jury discharged; go and see." The grand jury were discharged, and could not be found. "I am very sorry for it," he said, "this is a most shameful case." Mr. Blundell, of course, was immediately acquitted; but he went down to the grave with the stigma of having held up his hand on a charge of murder, in the dock among felons at Lancaster assizes. He was a Roman-catholic, and there were very great religious prejudices and controversies prevailing in that county; and I have no doubt that that was not the last time that he heard of this charge having been made against him. Now I say no public prosecutor durst have put Mr. Blundell upon his trial.

17. Mr. *Philipps.*] Had a magistrate committed in that case?—It is possible Mr. Blundell may have been committed; he was not in gaol at the time; if he had been committed, he was out upon bail.

18. Mr. *Attorney-General.*] Would your Lordship deem it desirable, with the view of preventing such a case of public outrage as that, that the public prosecutor should intervene prior to the finding of the bill by the grand jury, or after it?—I should greatly prefer the public prosecutor interfering in the first instance.

19. So that only such cases should be sent to the grand jury as the public prosecutor was of opinion ought to be submitted to them?—Yes; I have the greatest reverence for the institution of the grand jury, but at the same time I consider that in the great majority of cases it might be most conveniently and advantageously dispensed with.

20. The *Lord Advocate.*] If there was a public prosecutor, would it not be better to do away with the grand jury altogether?—I can hardly say that.

21. *Chairman.*] Would your Lordship be disposed to take this view of the case: supposing the public prosecutor refuses his sanction to a prosecution, would you allow the complaining party, at his own risk and expense, to take it before the grand jury; because otherwise, does not it appear to your Lordship that you give to the public prosecutor, supposing him appointed, absolute power?—I would by no means take away the power of the individual or the grand jury.

22. Then you would allow a person, though the public prosecutor refused his sanction, to prosecute at his own expense?—Yes.

23. Lord *Stanley.*] But in such event, would not the person whose case the public prosecutor had refused to send before the grand jury, have undergone what would probably be regarded by the grand jury as virtual acquittal beforehand?—No doubt it would have that effect; the refusal of the public prosecutor would always be taken into account. In Scotland the course is this: the Lord Advocate, who is the public prosecutor there, may refuse to prosecute; but the private party, with what is called the concourse of the Lord Advocate, may prosecute; and it was always in my time a moot point whether the Lord Advocate had the right to refuse his concourse; I think the more general opinion was that he had not the right to refuse his concourse.

24. The *Lord Advocate.*] I think it is now fixed that he has not the right?—I have seen a prosecution (it was a case of military riot) in which several persons were tried, the prosecution being carried on with the concourse of the Lord Advocate by a private prosecutor; they were acquitted no doubt, but they might have been convicted; and I ought to observe, that in discussing the question of a public prosecutor with several of the judges particularly, their great objection to dispensing with the grand jury, and to having a public prosecutor which might virtually dispense with the grand jury, was the taking away from private parties their right of prosecuting and vesting it in the Crown. I also know that many persons other than judges had a great objection to the alteration of the law with respect to appeal of felony and appeal of murder. I remember Sir Francis Burdett very much objected to it, preferring even the possibility of the plea of wager of battle to abolishing it altogether, because it would be taking away the remedy of the public. But I do not see at all why that remedy should be taken away. I do not see the incompatibility of the two; they are not found incompatible in Scotland, though it very rarely happens that a private party prosecutes in Scotland.

25. Lord *Stanley.*] Even leaving the right of private prosecution and retaining the grand jury on its present footing, would not the decision of a public prosecutor, whom you assume to be an experienced lawyer, refusing to take up the case after hearing the statement of the aggrieved party, virtually supersede the functions of the grand jury, and throw out of court the case which he had refused to take up?—It might sometimes do that; but then there would be this security, that supposing the public prosecutor is the servant of the Crown, the other side of the question is to be considered of a prosecution being instituted, which ought not to be instituted, the grand jury in that case is a protection to the party. For instance, supposing in the heat of political discussion or political controversy, violent times were to recur, which God forbid! but which some of us are old enough unhappily to remember, there might be prosecutions where a grand jury would be a salutary check. However, this is to be said, and it may be considered no doubt as for a public prosecutor, and against a grand jury, that in times of that sort the grand jury always have a very great chance of being under the influence of the popular excitement at the moment.

26. Mr. *Attorney-General.*] Has it occured to your Lordship to consider the question with reference to a distinction between political and other cases, whether supposing it were thought expedient to dispense with the intervention of the grand juries in ordinary cases, they might be reserved for cases of a particular description?—It would be very difficult to draw the line by any legislative enactment between political and other cases; for example, in the very case to which I have referred where in Scotland, the Lord Advocate having refused to prosecute, a relation prosecuted the parties with his concourse, it was for murder, and the question would have arisen was it a political case or not? It was a murder connected with a riot no doubt, but it might not have been so connected in such a way as to come within the scope of a provision of that sort.

27. *Chairman.*] Referring to the question put by Lord Stanley, does not your Lordship think that the grand jury would be a wholesome check upon the public prosecutor's exercising his power in an arbitrary way, not only in not acquitting the guilty, but that if there was a grand jury, and the grand jury found a bill where the public prosecutor had refused to sanction a prosecution, and the man was afterwards found guilty, the knowledge of that state of things would be a check upon the public prosecutor, and would cause him to be more careful in the exercise of his discretion?—It certainly might.

28. The *Lord Advocate.*] In Scotland the whole system is uniform; the public

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

public prosecutor has the charge of the case from the time the first information is given down to the conviction, that is through an organised staff of officers, of whom the Lord Advocate is the head; and in the Crown Office the whole proceedings are filed, and consequently at any time there can be a reference to the person who has the charge of the case. In England how does your Lordship propose that that should be done, because I think one important function of the public prosecutor is the fact that he is a person responsible in Parliament to the public for the whole proceedings which take place; that would require a very large organisation in England?—I think, before your Lordship came in, I mentioned that I considered that to be the very great difficulty in the case. In Scotland there is, as you know, a procurator fiscal in many districts and in many towns, independently of the counties, so that there is a local prosecutor everywhere. In England there ought to be something of the same arrangement, and that is a very great difficulty, no doubt. The plan which we thought of in 1834 was intended, at first, to have operated within the great district of the Central Criminal Court. It did not require an Act, for the Treasury were to employ the different counsel, and our view was that, becoming wise by the experience which we should have had of a year or two, we might extend it a little further, till at last we could enlarge it so as to cover the whole country. In the resolutions which I moved in March before the House of Lords upon criminal procedure, and which are still there for discussion, the 6th and 7th relate to a public prosecutor; the 6th resolution is, "That the prosecution of offenders should be entrusted to an officer appointed by the Government, with such number of subordinate officers as may be required for conducting prosecutions in the counties and larger towns; but that until such a measure can be adopted" (this is with a view to the difficulty in question), "it is expedient to appoint barristers who shall advise upon and conduct the prosecutions in the Central Criminal Court and the Courts of Quarter Session of Middlesex and Surrey," purposely to begin experimentally. Then the 7th resolution is, "That the public prosecutors should, in all the graver cases, as the pleas of the Crown and forgery, proceed by bill before the grand jury, but in other cases should at his discretion be allowed to proceed upon commitment by a stipendiary magistrate, without any bill found." These, among other resolutions, are now under consideration in the House of Lords and by the Government, they having, I will not say refused, but for the present declined, to issue a commission to examine into the whole subject, because these 18 resolutions extend over almost the whole of the criminal procedure. The Chancellor has pledged himself to bring in one or two Bills, which are now in preparation, to carry into effect several of these resolutions; and I believe one, but which is not yet so matured that he has been able to give notice of it, will have reference to curing the defect with regard to a public prosecutor, to a certain extent.

29. *Chairman.*] You have mentioned the great difficulties connected with the subject; has your Lordship turned your attention to the system in France and other countries where those difficulties have been completely overcome?—I am always exceedingly slow to speak about foreign law and foreign practice, but I believe we are really the only country in which there is no public prosecutor. When I made my statement lately in the House of Lords, I said that this was the case, unless in America they may have imported the English law in that respect as well as in others, but I believe there is very little doubt that they have a public prosecutor in America; I know in New York they have, for I have looked at the New York code; they have what is called the state attorney, county attorney, and the district attorney. In France no doubt they have a public prosecutor; everything is done by a public prosecutor.

30. The *Lord Advocate.*] In order to follow out the system fully, would it not be necessary to have something like a department of public justice?—I am quite clearly of opinion that not only in order to carry into effect this system, but that even if you never dreamt of touching the subject of a public prosecutor at all, there are a thousand other reasons why there ought to be a department of the ministry of justice. To take an instance of the want of such a department, it is hardly possible ever to sit in judgment in this country upon the construction of an Act of Parliament, especially Acts of recent date, without being astounded with the insufficient manner in which they are drawn. A considerable proportion of the business in courts of justice now arises from the mode in which Acts of Parliament are framed; it is very much improved of late since Mr. Coulson

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

Coulson came into his present office, but still a single person will not suffice; there must be a Board.

31. Lord *Stanley.*] Then without such a minister of justice you do not believe that the system of a public prosecutor would be available?—I do not say that at all.

32. Mr. *Philipps.*] Before we quit the subject of the grand jury, in your Lordship's judgment, to which error do you think the grand jury most prone, that of throwing out bills which they ought to find, or finding bills which they ought not?—My own personal and professional experience upon the subject is of very little value, for I practised very little in criminal courts; it was by mere accident that I ever went into the criminal courts while I was either upon circuit or in Westminster Hall; but I should say that it was rather by the escape of the guilty than by the trial or oppression of the innocent that the evil existed.

33. Mr. *Walpole.*] Will your Lordship allow me to call your attention to the seventh resolution of your Lordship, which appears to me somewhat conflicting with what has passed since we have been in this room; I observe that in that resolution your Lordship proposed a distinction between different classes of offences; that in offences of a graver kind there should be a bill before the grand jury, but that any of a less grave kind should be proceeded with by commitment by a magistrate; does your Lordship still hold to the opinion that it would be desirable to keep up that distinction?—I think so, on the ground of there being so very many cases in which it is useless to have a grand jury; it is a mere form, which is very oppressive to the grand jury, and they have been suffering very much in the City, as appears from Mr. Wortley having brought in a Bill upon the subject.

34. Then as I understand your Lordship, in what I may call the minor offences you would dispense with the grand jury in future?—I should be very sorry to see any legislation which would go to abolish the grand jury even in that limited degree. I think there is so very strong an opinion in its favour, that at all events I do not think we are ripe for that. I have said in the resolution that in other cases the public prosecutor should "at his discretion be allowed to proceed upon commitment." With respect to grand juries, I may mention that the difference between a public prosecutor and the grand jury system is very striking from the returns which we have, and the result of which I may be permitted to state. The number of commitments for England and Wales in the last year for which we have a return, namely 1853, was 27,057. The number of persons tried was 25,585, there being 1,472 discharged. Of those tried 4,793 were acquitted, including those against whom the grand jury threw out the bills; that is to say, the acquittals were between one-fifth and one-sixth of those tried. In Scotland for the same year, the commitments were 3,756, the persons tried 3,139, and the acquittals only 279, or between one-eleventh and one-twelfth of the persons tried; so that the acquittals were twice as numerous in England as in Scotland. I took the liberty of stating that as clearly showing the difference between proceedings instituted and conducted by experienced, professional, responsible public men and those conducted by private individuals. Not only is there this difference between England and Scotland, that is to say between the result of proceedings under professional superintendence and those which are not so, but it varies exceedingly in the counties in England; it varies so much as this, that the average acquittals of the whole country being between one-fifth and one-sixth of the prisoners tried, the proportion in Somersetshire is one-third, in Hampshire and Buckinghamshire between one-third and one-fourth, in Sussex about one-fifth, in Wiltshire between one-sixth and one-seventh; so that in the different counties in England it varies in the proportion of two to one.

35. Mr. *W. Ewart.*] Does your Lordship recollect that many years ago Mr. Alison, in his Criminal Practice of Scotland, stated that at that time, in Scotland, the average of convictions to acquittals was as six to one, and in England as two to one, that being a confirmation of your statement?—Yes. With respect to grand juries, without intending at all to say that they ought not to be continued, it is impossible to deny that they are a very unsatisfactory body. In the first place, there is no challenge; you cannot tell who may be upon the grand jury; one or two of the very persons that ought not to be upon the grand jury may be upon it connected with the parties, either connected with the prosecutor or connected with the person against whom the bill is to be preferred; politically connected

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

as friends or as antagonists. Then there is a great variety of qualification, I may say, in the grand jury; at least there used to be; and I do not know whether it is not so still. Generally speaking, freehold qualification used not to be necessary for the grand jury; if it is now necessary generally over the country, it is of late years that that has been so. In Yorkshire it was necessary, but not in the rest of England. Then the practice in grand juries varies very much; the practice in different counties, I may say of my own knowledge, varies exceedingly as to the mode in which they resolve to proceed, the kind of evidence that will satisfy them, and the kind of evidence which they call before them. One very great variety, no doubt, existed in Ireland till the year 1816 or 1817, when it was found that, with the exception of one or two counties, the inveterate practice in every county in Ireland was never to see a witness; they never called a witness before them. That was discovered by Sir Samuel Romilly and Mr. Horner, and others of us in the House of Commons by some mere accident; we asked, and found, to our astonishment, that it was so; that the practice was inveterate and universal in Ireland, with the exception of these one or two counties, of only receiving the depositions before the magistrate, and then, without seeing a witness, proceeding to find the bill or to ignore it. The next year a Bill was brought in by Mr. Horner, supported by Sir Robert Peel, who was then Secretary for Ireland, which Bill was passed; and I recollect that through delicacy towards the judges and other official persons in Ireland, it was not made declaratory, though it ought to have been; but it was made enacting, as if there were some little doubt existing as to whether it was utterly illegal, no lawyer either in Ireland or in England having the shadow of a doubt that the procedure was grossly illegal. And what was the consequence of that procedure? Sir Samuel Romilly produced a proof of the result of this variety in the practice of grand juries in Ireland. Instead of the acquittals being one-twelfth of those tried as in Scotland, or one-sixth, as in England, the acquittals there were in the proportion of 15 to 16 of the persons tried; 192 were acquitted out of 205 who were tried. This was evidently owing to the lax mode of proceeding; which is one of the evils, no doubt. That is an extreme case; but still there are great differences in England, it is not to be denied.

36. Mr. *Watson.*] Does not the large proportion of acquittals which takes place out of the number of trials depend very much upon the laxity of committing magistrates?—It may; but a public prosecutor would remedy that.

37. Mr. *Attorney-General.*] The public prosecutor would have to exercise his discretion upon the very same materials that the grand jury in Ireland had before the new practice was introduced, namely, upon reading the depositions, and inasmuch as the great value of all examination is rather when the witness comes to be put more or less to the torture. I take it, that, so far as the grand jury are concerned, they having only to see that there is a *primâ facie* case upon which the man is to be put on his trial, it is comparatively unimportant whether they see the witness, in order for him to make the same statement as is contained in the depositions, and to be subjected to no cross-examination at all?—I cannot help thinking that it is very important that the grand jury should see the witness; a single question addressed to the witness might put an end to the case at once. I will give a very remarkable instance of that in the case of a very excellent friend of mine; he was put upon his trial, and there was a trial before Lord Denman, which lasted 12 hours, for a conspiracy to carry a bill by bribery, in Mexico. The grand jury found a bill without the least hesitation, and the foreman of the grand jury, on coming into court, I understand from persons who were present, chuckled exceedingly when he presented a true bill against the first merchant in the world. If the grand jury had known what they were about they would have put a question to the prosecutor, by means of which it would have been found that he owed the party charged 30,000*l.* or 40,000*l.*, and that this was in revenge because he would not forgive him that debt, and there would have been an end of the prosecution.

38. As the result of your very great experience at the bar, do not you believe that indictments for conspiracy, and for offences of an analogous character to conspiracy, are resorted to for the purpose of enforcing civil rights, or coercing people into doing what they cannot be obliged to do by means of civil procedure?—It is by no means rare. I was, for two days, once before Lord Tenterden for the defendants in an indictment for perjury, which was evidently transferred from the Court of Chancery, where the bill was pending on the answer to which the perjury

perjury had been assigned, and we were trying at Nisi Prius a bill in equity, in fact.

39. Your Lordship must have known of that occurring very frequently?—Frequently, certainly.

40. Is it not most desirable that that class of cases should be subject to the control of a public prosecutor?—Certainly; I think it most important. Another case I might mention, as showing the errors committed by grand juries: it was before Mr. Baron Alderson, I think, sitting at the Central Criminal Court: there was an indictment for forgery—the forgery of a will; and it turned out, when the case came before him, that there was no case whatever. The question was put, and it turned out that the grand jury had never taken the precaution of seeing the will, upon the forgery of which the indictment proceeded; they had never looked at the document alleged to be forged. There were two cases before the same judge, Mr. Baron Alderson, upon the Midland Circuit, of persons being kept in prison five or six months. There was a woman (one of the grossest cases that could be conceived) who was kept in prison five or six months, with all the contamination of a gaol, and all the wretchedness of her family, from whom she was taken away; and it turned out the moment the case came to be looked at that there was an end of it, and it was hardly allowed to come into court. The other case was that of the daughter of a prisoner; there was an indictment for murder or manslaughter, in killing her mother by starving her, and they had chosen to find a bill against a child of 12 or 13 years old, as well as against her father, and the child was kept in prison the whole of that time as well as the father.

41. Has it occurred to your Lordship at all to consider the propriety of allowing magistrates' clerks to advise the magistrates upon the examination and the committal of prisoners, and allowing those clerks to have the conduct of the prosecutions at the assizes; does it at all strike your Lordship that that system in practice has rather a tendency to produce commitments?—It is very likely indeed.

42. *Chairman.*] Frivolous prosecutions?—I ought to mention that I never attended sessions in any way except the sessions of the Admiralty at the Old Bailey once or twice; I never attended quarter sessions, and therefore my experience upon that point is exceedingly limited.

43. Mr. *Attorney-General.*] I understand that what your Lordship would desire to see in a system of public prosecution would be, that the appointment or the institution of public prosecutors should be engrafted upon the present system of the grand jury?—Yes, for the present, at all events.

44. Lord *Stanley.*] Is it your belief that the number of prosecutions which ought to be instituted, and which are abandoned or not instituted, is sufficiently great to form an element of calculation which would be taken into account by persons committing or contemplating crime; that is to say, is it sufficiently great to influence the effect which the law has upon the commission of crimes?—It would be very difficult to answer that question, from the impossibility of having any specific data upon which to go; you can tell the proportion of acquittals to convictions; you can tell the proportion of persons tried to persons committed; but it would be very difficult indeed to do anything more than to make a mere guess as to any proportion between the crimes which go unprosecuted and the crimes which are prosecuted.

45. Mr. *Attorney-General.*] I dare say your Lordship would agree in this view, that it is always an evil that acquittals should take place?—Of course, where there ought to be convictions.

46. I go further than that; what I mean is this, that where persons are put upon their trial, it is desirable, with a view to its operation upon the public mind, that only those cases should be tried in which convictions do take place, and would; that it is an encouragement to persons who may have a tendency to commit crimes to find that there are acquittals the merits of which they do not understand, and in which cases therefore they may be disposed to think that the parties have escaped by a lucky chance?—I think that is one of the evils of acquittals where there ought to be no acquittals, whether by defect in the law or defect in the machinery of the law, or by carelessness.

47. Unnecessary prosecutions?—Unnecessary prosecutions, or negligent prosecutions. Acquittals are always most hurtful; because, as you have just suggested, they tend to the encouragement of offenders. I take for granted that

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

the first thing which a person who is wickedly disposed does when he is meditating the commission of an offence is, to look to the means of perpetrating it. The motive exists in his own mind. Then the next thing he looks to is, the chance of escape; and the first chance of escape he looks to no doubt is, the chance of getting away, and not being seized, or not being found out if it is a concealed offence. But the next thing he looks to is, no doubt, the chance of escape if he is arrested. He is, as all men are, wicked men among others, very sanguine in the estimate which he forms of his own chances, and he first expects to escape altogether bodily. He then thinks, "Well, but if the worst comes to the worst I shall be caught; what chance have I then?" He then calculates the chance of escape; he takes that into his account, and all that train of thought passes through his mind in estimating whether it is worth his while to commit the offence or not, so far as it is a matter of calculation. It is (and it goes much against many of the arguments used upon this subject), that a man is under the influence of violent passion, or of violent propensity, or of great fear and alarm about his solvency, and so forth, and that then his calculating powers are laid asleep, and that therefore under the influence of those motives he commits the offence; that is one of the reasons, among many others, which make one exceedingly anxious to look to prevention, rather than to the effect of punishment; that is to say, prevention by good moral training, sometimes called education; but I call it good moral training, beginning with infant training; because I am afraid it is but a melancholy result which those practical administrators with whom one has discussed the subject have come to, that the effect of deterring by example is not great, certainly much less than the preventive effect of moral training.

48. *Chairman.*] Your Lordship thinks that the appointment of public prosecutors would contribute much to the certainty of punishment?—Certainly.

49. And I suppose your Lordship agrees with almost all writers on jurisprudence, that the great secret to prevent crime is the certainty of punishment?—Yes, as far as deterring goes.

50. The *Lord Advocate.*] What do you think would be the effect of a public examination before magistrates and before coroners' inquests as an initial proceeding, with a view to prosecution?—There is a great deal to be said on both sides upon that, as upon many other questions. There are great inconveniences, no doubt, in the publicity of the examination; there is very great hardship to the party brought before the magistrate in its publicity; there is very great annoyance and hardship to the witnesses and to the prosecutor, who are brought before the magistrate, no doubt; but against all that, one cannot help setting the great advantage of the publicity of the proceeding, both preventing any malpractices by placing the magistrate, who is then the Court, in the eye of the public, and also by the great benefit which arises with a view to police, from its tendency to discover evidence, and to enable the parties prosecuting to be put upon the traces to find witnesses; so that, upon the whole, I have no doubt whatever that the benefits exceed the disadvantages of a public examination.

51. Has it not rather a contrary effect in some instances, namely, of affording guilty parties the means of escape?—No doubt it may have that effect. I am talking of the balance.

52. Mr. *W. Ewart.*] Does your Lordship agree in the following view which is expressed in the Eighth Report of the Commissioners on Criminal Law, in the year 1845. Summing up the subject, they say, "The existing law is by no means so effectual as it ought to be; the duty of prosecution is usually irksome, inconvenient, and burthensome; the injured party would often rather forego the prosecution than incur expense of time, labour, and money. The entrusting the conduct of the prosecution to a private individual opens a wide door to bribery, collusion, and illegal compromises"?—Certainly generally speaking, I should agree with that.

53. Mr. *Philipps.*] Speaking of grand juries, your Lordship alluded to the absence of the challenge; do you think it advisable that there should be any power of challenge with regard to grand juries?—No, it is not indispensable.

54. In one case bills are found by the majority, and the other case requires unanimity?—Yes, that makes a great difference.

55. *Chairman.*] With regard to the poorer classes, does not your Lordship think that it is a hardship upon the poorer classes that they should have nobody to whom they can go and say, "I have received such and such an injury; I call upon

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

upon you, as the instrument of society, to assist me in the investigation"?—Certainly; and when I said, a little while ago, that it was a hard thing that persons were only allowed their costs, even when they were compelled to come and give evidence, there is this to be added, that it is not only hard that they should wait till the result of the trial before they know whether they are to have their costs at all, but it is hard that the costs should be paid afterwards, and not before, because a poor man may not be able without great inconvenience, perhaps not able at all, to find his way to the assize town, or to the sessions, as a witness. That is one great evil at present existing, which I hope will be remedied by some of those measures which the Chancellor says are now being framed upon the ground of my resolutions of March last. One great hardship to poor prisoners is, that they have no means of bringing their witnesses to the trial; and it has been suggested that they might have their witnesses allowed their expenses, upon their acquittal, after the trial; but, alas! they have no capital wherewith to bring the witnesses before the trial, and it is to bring them to the trial that they are wanted. Accordingly, one of my resolutions is, to give the power to the committing magistrates to say what witnesses shall at the public expense be brought to the trial.

56. Has your Lordship turned your attention to the French system on that part of the subject?—They allow all expenses. It would be a dangerous thing for us to give so large an allowance as that.

57. You would not allow the expenses of witnesses to character, perhaps?—Hardly; although at the same time it might be essential; but the difficulty I feel is this, that if you allowed an unlimited power of bringing witnesses, a prisoner in the hands of an unscrupulous practitioner might bring a cloud of witnesses for the purpose of obtaining their expenses.

58. Mr. *Attorney-General.*] Does your Lordship think that our present system is defective in this respect, that there is no one to see that the evidence is complete, so as to ensure conviction where a conviction ought to take place, between the time of commitment and the time when the bill is found and the trial takes place. A magistrate examines and sees upon the depositions what he thinks to be a case in which a trial ought to take place; he commits the individual, and he is sent to prison, and remains there till the time of the sessions or the assizes. The prosecutor, who is not a man cognizant of the law, comes to the assizes or the sessions, goes before the grand jury, and prefers a bill upon the depositions; but there is no one whose office it is to look, prior to that time, to see that the evidence upon which the magistrate committed is all the evidence which can be procured, or is at all events sufficient evidence to prove the case?—That no doubt is a great defect; and by the practice which I have mentioned, where the clerk of the peace makes it a rule in some of the counties always to employ the same counsel, and to have constant communication with him in the arrangement of the evidence, and finding out the evidence, the defect is to a certain degree remedied. The evidence is examined very fully, and the counsel says, "This will not do; you must get other evidence, otherwise we must not prefer a bill."

59. Lord *Stanley.*] Do you consider it desirable that the public prosecutor should interfere and take the initiative in cases of injury, where the parties aggrieved do not themselves desire to institute proceedings?—I should be inclined to think generally not. I can conceive a case in which it would be very painful to the party injured, and would be a great aggravation of the injury which he has received, if it were to be brought before the public. One can conceive cases of slander, cases of libel, cases even of personal violence, where the party would much rather put up with the injury he had received than be dragged before a court of justice as a witness.

60. Mr. *Attorney-General.*] Might not that be safely left to the discretion of a proper public person?—Certainly.

61. On the other hand, let me put this class of cases. There may be cases of personal violence of a serious character, in which, from fear or from other motives, the parties injured may not wish to come forward, but which at the same time operate injuriously upon society; particularly cases in which brutality has been shown by husbands to their wives, and sometimes by parents to their children; in such cases the women would be unwilling to bring them before the public for prosecution; but at the same time it would be right, and everybody would so feel it, that a prosecution should be instituted; would it not be dangerous to lay down a rule, that in cases of personal injury the public prosecutor should

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

should not interfere without the consent of the parties aggrieved?—I should by no means lay down the rule that the refusal of the consent of the party, or the opposition of the party to the case being proceeded with should be binding upon the public prosecutor, but I should leave it to his discretion, so as not to make it imperative upon him to go on merely because on offence had been committed.

62. Lord *Stanley.*] You would not leave absolutely in the hands of the aggrieved party the option of overlooking the offence?—Certainly not; and for one reason among others, that the aggrieved party might refuse, not only from motives of delicacy and of personal feeling, and dislike, to bring it forward, but from sordid motives, either of fear or of money.

63. The *Lord Advocate.*] It would enable a rich party to buy up his crimes?—No doubt.

64. Mr. *Watson.*] Are you aware that the evidence is very imperfect in a large number of cases of committals by magistrates throughout the country?—I am quite aware of it; it is very often most imperfect. I believe a very great improvement in the administration of justice (it does not apply so much to committing magistrates as to sessions) would be the adoption of the plan in England, which is almost universal in Ireland, of a professional chairman of sessions. I believe in almost every county in Ireland, with one or two exceptions, the assistant barrister is chosen voluntarily by the magistrates to be the chairman of the sessions. When I originally framed the County Court Act in 1830, and afterwards in 1831 and 1832, a provision was inserted placing the county court judge (he was then called the local court judge or judge in ordinary) in the commission without qualification, with the express view, stated at the time, of his being chosen as the professional chairman of the sessions, and by the less extensive Bill afterwards brought in by Lord Lyndhurst in 1845 or 1846, and which improved, is now the law, the same provision was inserted, and the county court judge always may be, and I believe generally is, in the commission of the peace; but I am told that in no one instance have the magistrates ever chosen him for their chairman.

65. Does your Lordship see any objection to the committing magistrate being one of the bench of magistrates who try the prisoner if he is committed?—Yes, I have considerable doubts whether he ought to be. It signifies very little if it is a large bench, but I think upon the whole it is better not to be so; I know it is a very common opinion that he ought not to be.

66. Mr. *W. Ewart.*] Can your Lordship compare the system of public prosecution pursued in France with that in Scotland?—I cannot say that I know enough of either system to make a very accurate comparison; particularly of the French system. The office of Procureur-General, the old Procureur du Roi, is a very important office, and the consideration of it is attended with a good deal of difficulty. I believe it to have been the model of the office of Lord Advocate. I believe it was very much upon that that the office of Lord Advocate in Scotland was established, and among other things one analogy rather leads to this conclusion; it is a trifle, but it shows the similarity The Lord Advocate in my time used always to be in the robing-room of the Judges, to robe with the Judges, and accordingly in a civil law case, at the Judicial Committee of the Privy Council, when the Queen's Advocate, answering to the Lord Advocate, is present, he remains in while the Judges are making up their minds upon their judgment; a prize cause for instance. So in France the Procureur du Roi has certain *quasi* judicial functions; he is called a magistrate, and when strangers have withdrawn, the Procureur du Roi, the public prosecutor, remains with the court, as he does in Scotland; that is so even in civil cases; and that is the most difficult part of the subject, and what to a foreigner is the least intelligible, as to the limits of his office; he sums up the case even in common cases where he is not employed, but is merely Procureur-General; he gives the court the benefit of his advice.

67. Mr. *Attorney-General.*] He is a sort of *amicus curiæ*?—A general *amicus curiæ.*

68. *Chairman.*] Sometimes, as in the case of Paquesseau, he makes most magnificent efforts?—Yes.

69. Mr. *Attorney-General.*] Is not the great objection to the French system that the Procureur du Roi is the public prosecutor, but is apparently one of the Judges, and that he is too apt to use his *quasi* judicial power as auxiliary to his functions

functions as public prosecutor?—As to the French criminal procedure, with the exception of having a public prosecutor, and one or two other advantages over us, it is exceedingly bad. Their criminal law is very good, but it is impossible to conceive a much worse criminal procedure. There is no power of bail, for instance. I have known a most respectable man dragged through three or four departments, and imprisoned for three or four months till the assizes came on, against whom there was not the shadow of a charge; everybody admitted that, but there was no power of bailing, because the power of bailing is in proportion, not to the station of the party, or the probability of his being guilty or not guilty, but to the amount of the punishment which would be inflicted should he be found guilty; nothing can be more absurd than that.

70. *Chairman.*] Did your Lordship ever read the preliminary discussions to the Code Napoleon, with regard to the subject of the Procureur-general?—I have read a great deal of that book, and a most interesting work it is; and I will take the liberty of mentioning the authority of it, so far as regards a very interesting part of it, namely, the Emperor Napoleon's own observations in the course of the discussion. I asked a question of the French Arch-Chancellor, Cambaceres, many years ago, in the year 1817; we were speaking of this book, and I said, touching the parts which related to Buonaparte, "Monseigneur, est-ce d'une fidélité parfaite?" he said, "Plutôt d'une fidélité discrète;" and nothing, I believe, could be more correct than that; nothing was put down there that he had not said, but a great deal was left out which he had said. I wrote that in the titlepage of my copy of the Conference du Code.

71. We have touched upon the subject which your Lordship mentioned just now, introduced, I think, by the Attorney-General, as to allowing the expenses of witnesses, and I think that the principle which we laid down was that it would lead to enormous abuse if the expenses of witnesses to character were allowed, and that that was out of the question; but that the witnesses could be called originally by the prisoner, and that if they turned out to be the witnesses of truth they should be paid by the State. Does your Lordship think that an advantageous course to adopt?—My difficulty there would be, that a poor man might not have an attorney who would advance him the money; and unless it is advanced, he does not get the benefit of the witnesses at all, for he cannot get people to go upon the chance of being paid.

72. A witness may say, "I have been waiting three or four days, and cannot stay any longer;" that may be false, but it is a frightful thing that a man should be convicted because a witness to fact is unable to remain and give evidence in his favour; is there any other way of avoiding that than by allowing the judge to certify that the witness called is the witness of truth, and material to the trial?—My opinion is, that that would be a very great improvement upon the present system; but my doubt is, whether it goes far enough, whether there ought not to be some prospective power given; and accordingly one of my resolutions suggests giving a power to the committing magistrate to cause to be advanced a certain moderate sum for the expenses of bringing witnesses. I am quite sure, from all I have both seen at the bar and heard of by conversing with professional men who have much greater experience in criminal practice than I ever had, that great hardship is done to prisoners from the want of evidence; every man in the profession must be aware of that.

73. The *Lord Advocate.*] In Scotland, if a man has important evidence to bring forward, and it is not able to be produced, we inform him that if he brings up his witnesses and we think, at the conclusion of the trial, they were proper witnesses to be examined, he will be allowed the expenses; that is done very frequently; but we never pay until after the trial, and until after we have seen that these witnesses ought to have been brought. Sometimes the prosecutor brings up the witnesses himself, at his own expense?—The worst of all the practices in the French procedure is this, worse still than not allowing the power of bail; namely, the torture and question which the prisoner is put to upon his trial by the judge.

74. Mr. *Attorney-General.*] The judge constantly converting himself, in the sort of intellectual contest which is going on between them, into an advocate. As your Lordship has adverted to that, I will take the opportunity of asking if you have ever considered whether one might not steer a middle course, not allowing the judge to interrogate the prisoner, whereby the judge forgets his judicial impartiality, and that he has to hold the balance, but keeping the judge as

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

judge, and allowing the advocate, the public prosecutor, to interrogate the prisoner; whether, after all, the interrogation of the prisoner may not be the very best means of ascertaining the true state of the case?—I am perfectly clear that some change in our law upon this subject, some relaxation, is absolutely necessary. My only objection to the French procedure is that it is the worst possible mode of doing it; namely, making the judge himself, with all his judicial functions, and character and weight, the person to put these questions. There was a most able paper of the late Lord Denman's in the Edinburgh Review many years ago upon this subject, in which it was thoroughly discussed, and, as might be supposed, most ably discussed; but I do not think he goes so far there as to say that our system is at all perfect, or anything near it; and I think it is quite compatible with the views which he takes that there should be a power given of examining the prisoner. One mode which has sometimes struck me as being a step towards it, and which might be safely taken, is, to give an optional power to the prisoner to be examined if he chuse. At present, by my Evidence Bill, 1852, a prisoner cannot be called in the same way as a party in a civil suit. In a civil suit the plaintiff or defendant can either tender himself, or be called by the adverse party. In a criminal proceeding that does not apply, and the question is whether a similar power should not be given to the party to tender himself for examination. In that case he must be subject to cross-examination, and his statements to be disproved by evidence; and moreover, to be prosecuted for perjury if he gives false evidence; you cannot stop short of that.

75. Still by that means he might be acquitted in this way, that not knowing beforehand what statements he was about to make, the prosecutor would not be prepared with evidence to rebut those statements, which might produce a certain impression upon the jury, and carry the point at the moment; whereas if the man, prior to the trial, were subject to an examination on the part of the public prosecutor, then if he stated things falsely, you could have and could desire no better *indiciæ* of his guilt than the falsehood which he had stated. At all events it would have weight. Therefore I am anxious to put it to your Lordship, who is so great an authority upon those matters, whether, however vicious it might be to make the judge the interrogator, if he were there to hold the scales, it might not be desirable to subject the man to examination, just the same as if any one of us had a servant upon whose character or conduct we were to pass judgment, the first thing we should do, if we thought it necessary, would be to examine him himself, and I do not see why that course should not be adopted?—Nor I either, and you will observe that as it now stands the prosecutor is subject to the fullest examination; the defendant is not subject to any.

76. The *Lord Advocate.*] What is your Lordship's opinion of the Scotch system in that respect, which is the examination of the prisoner when he is brought up for his first examination?—You mean his declaration?

77. Yes. He is examined by the Procurator Fiscal; he may either answer or not, as he pleases; the Procurator Fiscal may go on and put as many questions as he likes?—He is not bound to answer. In the case put by the Attorney-general there is a question whether he should be required to answer.

78. Mr. *Attorney-General.*] I do not know about that, but I quite admit that the Scotch system is so far very useful that if you put to a man perfectly fair questions, such as "Where were you on such a day?" when he is alleged to have committed the offence; "Did you do this, that, or the other?" and he refuses to answer, that silence would be very easily understood by the tribunal which had to adjudicate upon him, and its weight would be felt?—My opinion is, that self-crimination is no objection to a witness, if it is not in his own case but in another person's case. I think that a witness ought to be compellable to answer questions, though criminating himself, if he is the witness of another party; but that his answer should not be given in evidence against himself.

79. I think we have provided for that in the Common Law Procedure?—No; he has still the benefit of that objection; he is not compellable to answer; he may say, "I will not answer the question."

80. The *Lord Advocate.*] With respect to the public responsibility of the public prosecutor, the public prosecutor must have a great responsibility; and unless there is to be a large department for him, I do not quite see how that responsibility can be met; that is to say, how can you call the public prosecutor to account? In Scotland he is bound to answer in Parliament; but if there are a great number of public prosecutors, not amenable to any one head, then no

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one man or no one department is responsible?—That I know to be one of the difficulties, that you must have a responsible person; you have the Attorney-general in England, which is a most effectual responsibility; in practice, perhaps, the best kind of responsibility; he is not only liable to impeachment and to removal from his office, but he is liable to be questioned in Parliament; but then he must be responsible for all his deputies.

81. Mr. *Philipps.*] Do you think that the chances of acquittal generally increase or diminish with the inferiority of the bar; for instance, there are a few sessions left where no persons but attorneys practise; in others there are barristers of not much experience; in others barristers of very considerable experience; how do you think the bearing is generally as regards the superiority of the court; is it in favour of convictions or of acquittals?—I apprehend that it is in favour of convictions where there is a bar attending, because the prosecutions are better conducted.

82. Therefore in estimating the number of acquittals, the inferiority of a particular bar may have an effect in producing that result?—It may, no doubt; but that want of a bar is one of the great evils of local judicature which one is feeling at every turn; all the present system of county courts is exceedingly affected by the want of a local bar; that is the great difficulty.

83. *Chairman.*] May I take it that your Lordship agrees with this answer of my Lord Denman with regard to the general state of the question: "Our procedure for the purpose of preliminary inquiry is open to great objection. The injured party may be helpless, ignorant, interested, corrupt. He is altogether irresponsible; yet his dealing with the criminal may effectually defeat justice. On general principles, it would evidently be desirable to appoint a public prosecutor"?—Yes.

84. Has your Lordship any plan to suggest with regard to the machinery by which the evil may be remedied?—That is very difficult indeed; for the very crude sketch of a plan which we had in 1834 amounted really to little more than this; let us begin and try; let us proceed tentatively, and then see whether, wise by experience, we are not able to hit upon some mode which shall effect at least some of the good we want, and may not be liable to the objections; and then, after that, we shall be able to put it into shape. But, at present, the difficulty is very great of having in every county or two counties in England a local public prosecutor.

85. Would your Lordship think this system objectionable, namely, not to have anybody resident except a district agent, for the purpose of collecting and methodizing the evidence, to whom, in case of injury, the injured party might go; but to have chosen from the members of each circuit two or more gentlemen to fill the office of public prosecutor, and to undertake the management of prosecutions, not obliging those two or more barristers to reside always upon the spot, to which I think there would be many objections?—I think there would be a very great advantage gained by even one part of your proposition being adopted, by having a local agent to superintend the preparation of the evidence and the getting up of the case, as it were, which should be brought before the grand jury, even if it went no further than that, the agent having the benefit of a locally resident counsel.

86. That is a practice I believe pretty general in America; they have what they call the district attorney whose duty it is to superintend all business of that kind; in some parts of America I know they have?—The district attorney is the public prosecutor.

87. I am not sure, but I think he is a barrister?—What they call the State Attorney is what we should call the attorney-general, and I thought that the district attorney had been a deputy attorney-general and a barrister; they are called "attorney." The State attorney is called "attorney," and he is a barrister.

88. The objection with which I have been most frequently encountered, with regard to the appointment which is suggested to your Lordship has been this, that it would give such prodigious patronage to the Crown; does your Lordship think that that is, I will not say a serious objection, an objection it certainly is; but does your Lordship think it an insuperable objection?—I should say that it is an objection which one might overcome. For example, I had a great objection formerly to county courts for fear of the great increase of patronage of the Crown, but feeling the absolute necessity of having some local judicature, I must say

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

say I got over that objection as early as 1830. These deputies ought to be irremovable.

89. *Dum bene se gesserint?*—Yes, they ought not to be removable at a moment's warning. The Attorney-general must be removable at any moment from the nature of his office, but I am quite clear that those deputies if they are to be in the country, ought not to be removable with the Attorney-general. If so, you will just be getting England into the same state in which America is at present; there it is one eternal canvass from the election of one president to the election of another; here it would be one eternal canvass from the installation of one ministry to the installation of its successors; it would be perfectly intolerable and would interfere with the administration of justice.

90. Mr. *Attorney-General.*] The first great principle which ought to be inculcated into the mind of every Minister and of every Attorney-general with regard to public prosecutors, and with regard to all the subordinate agents in the administration of justice, is that politics are to have nothing to do with the matter?—Clearly.

91. And that whoever has the appointment of the public prosecutor, if a public prosecutor is appointed, should be entirely responsible before Parliament and responsible before the country for the selection of the very best man who can be procured, without any reference whatever to any personal or political consideration?—Certainly; politics have a worse, a more corrupting and more dangerous influence than even mere ordinary corruption, for this reason, that they apply to people who are above ordinary corruption; party politics apply to them, and just produce the same bad effects, and, therefore, they ought not to interfere at all in any branch of the administration of justice.

92. Assuming that these prosecutors ought not to be removable lest it should give rise to this species of corruption, and to applications from a variety of parties for these appointments when they become vacant; on the other hand, you say that you propose that the Attorney-general, if he is to be the head of the system of public prosecutions, shall be responsible in his place in Parliament for the conduct of his deputies?—No doubt.

93. You would make him responsible for these persons, however inefficient they may prove; suppose a man to have been appointed who is a very able man, but who turns out to be careless, inattentive, and lazy?—I would make the Attorney-general answerable for him.

94. *Chairman.*] I propose that the two Chief Justices and the Lord Chancellor shall have the power of removing them, in case of negligence or misconduct?—I consider that it should be so, decidedly. *Dum bene se gesserint* includes not merely corruption, but inefficiency, or other defects, a very bad temper, for instance.

95. Mr. *Attorney-General.*] I do not know anything so overwhelming as the having to find all these public officers; but I certainly would strongly urge upon the consideration of those who have to deal with the subject (and I put it now in order to elicit your Lordship's view upon the subject), that it should be either with a responsible officer of the Crown, or with the public prosecutor himself, to name the subordinate agents; and for this reason, that if this patronage is not placed in the hands of some responsible public officer (and by "responsible" I mean responsible to Parliament), if it is left to the judges, I am quite satisfied from past experience that it will degenerate into a system of nepotism; the judges are not responsible to Parliament; they are not responsible to anybody, except so far as their own sense of public duty goes; they are, of course, responsible to public opinion, as all public men are, but they are not immediately amenable to personal interrogations in Parliament, and the effect would be, so far as I can judge from the past, that personal feelings, an anxiety to provide for sons and nephews and relations, a desire to serve friends, and a little predilection for one member of the bar rather than another, would lead to the selection of these individuals. And another thing which I am afraid of is, that it would very seriously compromise the independence of the bar. I should, therefore, submit, that if public prosecutors are appointed, it should be either in the Lord Chancellor, or in the Home Secretary, or in two or more similar persons, but that it should be in persons responsible to Parliament?—I would acquiesce in that, if I could be sure that it would not lead to their going out at every change of government. The original appointment should be in that way, certainly.

96. *Chairman.*] And the filling up of vacancies?—And the filling up of vacancies; but it should never be understood that these were political offices.

97. Mr.

Right Hon. Lord *Brougham and Vaux.*

12 June 1855.

97. Mr. *Attorney-General.*] Certainly not; and if the persons having the power of appointment removed them, they should only remove them for incapacity or misconduct?—Upon cause shown, and after a full inquiry.

98. Mr. *W. Ewart.*] Is not the procurator-fiscal in Scotland appointed by the local magistracy?—By the sheriff.

99. The *Lord Advocate.*] The Lord Advocate would require the procurator fiscal to be dismissed, if he thinks he is not discharging his duties; but he is appointed, and is removable by the sheriff. In the boroughs the town council appoints the borough fiscal, but that is not a part of the system?—That is so.

100. *Chairman.*] Then I understand your Lordship to be clearly of opinion that the appointment of attorneys to digest and methodise the evidence for the prosecution in certain districts is clearly desirable?—Clearly desirable, even if it stops there for the present. I look forward to its being possible by degrees to extend it, even to making it a complete system; but I have no hope of that being done at present.

101. The *Lord Advocate.*] Would not the county courts and the county court judges be able to a certain extent to assist in such a machinery as the sheriff does in Scotland; the sheriff has a criminal jurisdiction, and he superintends, in fact, the preparation of all the criminal cases?—One would rather be afraid of giving a judicial officer, such as a county court judge, an employment which is rather more like that of a private practitioner.

102. *Chairman.*] The labour of the county court judges must also be taken into consideration?—The labour is very great in their case.

103. The county court judges might attend quarter sessions?—Yes, very easily; it would be no very great addition to their business; 10 days in the year, I suppose. I suppose it is now only extended to eight days in the year.

104. Then your Lordship has no particular suggestion further to make with regard to the machinery by which this system should be carried into effect?—None whatever. I think it ought to be done experimentally, tentatively; and that you should begin upon a moderate scale if you can. According to the scale which I suggested it would be the central criminal court, which is as large as all Scotland in point of jurisdiction.

105. Mr. *Watson.*] Is your Lordship aware of the mode in which the prosecutions are conducted in Liverpool and Manchester by a person in the nature of a public prosecutor?—In my time, on the circuit, the clerk of the peace generally employed the same counsel to prosecute and to draw the indictment.

106. I believe in Liverpool there is a person in the nature of a public prosecutor who gets up all the prosecutions, receiving a stated salary?—Just so; and in the West Riding and in Durham and Northumberland the same counsel are always employed.

107. There they are not paid by salary, I believe?—No.

108. But in Liverpool there is a salary paid?—I was not aware of that.

109. *Chairman.*] That is the practice at Leeds also?—At Leeds also.

110. Mr. Markland, who seems to be a gentleman of great intelligence, says that it has answered exceedingly well at Leeds; that the evil was very great, but has now been remedied; and Mr. Ellis, who is the recorder of Leeds, says the same thing?—I am glad to hear it.

The Right Honourable *James Moncreiff*, Lord Advocate of Scotland, a Member of the Committee, Examined:

Right Hon. *J. Moncreiff*, M.P.

111. *Chairman.*] WILL you be good enough to give us an account of the system in Scotland, and how far you think it might be applied successfully to England?—I can very easily describe the Scottish system; the application of it in England perhaps requires more knowledge of the English system than I have. The system proceeds upon the principle that it is the duty of the State to detect crime, apprehend offenders, and punish them, and that independently of the interest of a private party. The Scotch system acknowledges the right of a private party to prosecute; but the duty of the public prosecutor is altogether irrespective of that. The staff, if I may so call it, of the public prosecutor is as follows: the Lord Advocate is the head of the criminal department; under him he has four advocates-depute, and these do the business that a barrister properly does in criminal cases; their duty is to advise in the proceedings while they are

Right Hon. *J. Moncreiff*, M.P.

12 June 1855.

going on, in the collection of evidence in the country, and when the evidence is completed, to draw the indictment, and to attend the trial, and take the ordinary part in procuring a conviction. The Solicitor-general is also, in his criminal capacity, a depute of the Lord Advocate; he holds a deputation from the Lord Advocate as such. There is a Crown Agent, who is the Crown attorney of the Lord Advocate, appointed by him, and subject to his orders, and removable with the Lord Advocate; he is a political officer, and he goes out of office with the Lord Advocate; but the Crown-office is permanent, and consists of a considerable number of clerks, who are not changed in practice with the Government; the advocates-depute do go out with the Government; so that the political staff substantially consists of the Solicitor-general, appointed by the Crown; the advocates-depute, who are appointed by the Lord Advocate; and the Crown Agent. The means of detecting and punishing crime in the country consist, in the first place, of the procurator fiscal; there is a procurator fiscal for each county, and a procurator fiscal for some of the larger boroughs. In the counties he is appointed by the sheriff, in the boroughs he is appointed by the town council, but he is directly under the orders of the Lord Advocate and his deputes. The mode in which the system operates is this. The procurator fiscal receives information that a crime has been committed; his duty is to make immediate inquiry; if any person is suspected, he applies to the sheriff for a warrant to apprehend him; he does apprehend him, and the party is taken before the sheriff for examination, and upon that occasion the declaration is taken; the party is cautioned that he need not speak unless he likes, and then he is asked by the procurator fiscal, in the presence of the sheriff, any questions which seem to be material; and his answers are taken down and may be used against him in evidence. Then, if there appears to be ground for an immediate warrant to commit, he may be committed at once; the usual course is to commit him for further examination, and then the procurator fiscal takes what is called a precognition, that is to say, he examines the witnesses whom he can discover, not publicly but privately; they are not properly depositions, but they are statements taken down by the fiscal and signed by the witnesses; and if the case is at all of importance to warrant it, he sends this precognition to the Crown Agent. The witnesses may be examined on oath, but this is not usually done, unless the witness is reluctant. The precognition is sent by the Crown Agent to the advocate-depute of the district in which the crime has been committed; it is his business to read it over, and if he is satisfied, may order no further proceedings, or he sends down to the fiscal to have the party committed until liberated in due course of law, if that has not been already done, and proceeds to indict; but if the advocate-depute is not satisfied, he either sends it back to the fiscal for further investigation, or he comes to consultation with the Lord Advocate. We meet twice a week, and where the advocate-depute has any difficulty, he brings it to consultation, and in that way great uniformity is obtained both in prosecuting and in the preliminary proceeding. Then the question is, where the party is to be tried. He may be tried before the sheriff, or before the circuit, or before the High Court of Justiciary. If it is a small offence, such as an ordinary theft, the general course is, to send the party to be tried by the sheriff, either with or without a jury, and then the procurator fiscal attends and prosecutes. If, on the other hand, the party is an old offender, and he is indicted at the circuit, the advocate-depute attends. If it is a serious offence, or committed within the home circuit, he is tried before the High Court of Justiciary; and in that way, it appears to me that the machinery works remarkably well. How it would do upon a larger scale I can hardly say; but from Scotland being limited in extent, so far as my experience goes, I think it answers all the objects of such an institution very well indeed. I can say, from my own experience, that it operates fully as much in the protection of innocent persons against unfounded accusations, as it does in the detection of crime; and for my own part, I think that the want of publicity in the first examinations, if you have, as we have, a sufficient check in the superintendence such as I have described, tends very much indeed to the detection of the guilty: and I do not believe that our procurators fiscal would think it any advantage to have the witnesses examined in public; that is the system which we follow. These consultations which we hold twice a week have been found to be of very great advantage, because they methodise the law; and I think the whole criminal procedure is now reduced into a very uniform and good system.

112. The procurators fiscal, I suppose, are an inferior class of persons, who do

do not go out with the Lord Advocate?—Generally a leading attorney in the county town is the procurator fiscal.

113. How many advocates-depute have you?—Four; and one for the sheriff court.

114. Those are quite sufficient for all Scotland?—Yes.

115. Do they reside in Edinburgh, or wherever they please?—They are practising barristers, and reside in Edinburgh.

116. They do not reside in any particular district?—No.

117. Mr. *Watson.*] What are they paid?—About 500 *l.* a year.

118. Mr. *W. Ewart.*] Do they make a circuit?—There are three circuits twice a year; one west, one north, one south, and an advocate-depute is attached to each circuit, and travels with the judge. There is a third circuit at Christmas, in Glasgow.

119. Mr. *Watson.*] He is paid by salary?—Yes, entirely; between 500 *l.* and 600 *l.* a year.

120. How are the procurators fiscal paid?—They were paid by fees formerly; but about three years ago, the fees were becoming rather excessive, and the fiscals, who drew the larger amount, were placed upon salary, so that all over 400 *l.* a year are now placed upon salary. Those whose incomes from fees were less are still paid by fees, and I think it is a very doubtful question whether it is desirable to extend the principle of salary any further, because while we found before that they reported cases which should not have been reported, we rather find now that the fiscal, having no interest in the matter, is sometimes apt to overlook things which he ought to attend to.

121. *Chairman.*] Suppose that the advocate-depute refuses to prosecute, and the party thinks he has ground to prosecute, then he gets the consensus of the Lord Advocate?—Yes.

122. Does that often happen?—No; I have hardly known an instance of a prosecution in that way; I have very often known instances of remonstrances from private parties, addressed to myself, and sometimes it has happened upon second inquiry that the judgment of the advocate-depute has been altered, and the case has been tried.

123. It also happens in the other way, that the advocate-depute adheres to his opinion, and the thing is put aside?—Yes, that does happen. The concourse is to a prosecution by a private party.

124. And that is almost unknown?—Yes; I remember one instance, and one only, of a regular prosecution by a private party since I came to the bar.

125. Mr. *W. Ewart.*] In former times it did happen?—Yes.

126. But in modern times it has been very rare?—It has.

127. *Chairman.*] That is a strong proof of the efficiency of the system?—A very strong one, I think.

128. Mr. *Watson.*] Suppose a case of conspiracy or of forgery, would it be submitted to the Lord Advocate?—Certainly; before the prosecution was instituted the procurator fiscal, upon receiving information of it, would report it.

129. *Chairman.*] Suppose a person in an inferior class of life, a helpless woman, received an injury, she would go immediately to the procurator fiscal and say, "I have received such an injury, and I call upon you to prosecute the offender"?—She probably would tell a policeman, or some friend, and he would go to the procurator fiscal at once.

130. But she would have a right to go to the procurator fiscal at once?—Yes.

131. Mr. *Philipps.*] If there is only one officer to whom a person may apply, is there any inconvenience from delay; may not persons escape?—If we found a procurator fiscal having information of a crime from any source, and not acting upon it, he would be liable to be dismissed at once.

132. *Chairman.*] What is the population of Scotland?—About 2,600,000.

133. How many procurators fiscal are there for a town like Glasgow, for instance?—There are one burgh and two county procurators fiscal resident in Glasgow.

134. Is one advocate-depute sufficient?—Quite.

135. Mr. *W. Ewart.*] Do not the parties injured sometimes apply to a magistrate, instead of going to the procurator fiscal?—Very likely, especially in the remote districts; the sheriff is properly the person to whom they go; the procurator fiscal is, to a certain extent, his servant.

136. Lord *Stanley.*] Is it optional with the procurator fiscal to refuse to take

Right Hon. *J. Moncreiff*, M.P.

12 June 1855.

up a case, and is there an appeal in that event to the Lord Advocate?—He may refuse if he chooses; but if the party complains to the Lord Advocate he is immediately ordered to report. I have constantly letters of that sort, and I write on them, "The procurator fiscal to report," and I get from him an account, and give what directions are necessary.

137. Mr. *Walpole.*] It sometimes happens that the private party does carry on the prosecution?—A private party may if he pleases carry on a prosecution, and I hold that the Lord Advocate is bound to give his concourse.

138. Lord *Stanley.*] Supposing that system to be extended to a population eight or nine times as large as that of Scotland, do you think that any one person, whether called a minister of justice, or whatever he might be termed, would be competent to deal with all the cases through his local agents?—No; as I have already intimated, I think that in England it would be impossible to make the system work as it does in Scotland, without having a special department for the purpose of superintending the administration of criminal justice. At the same time, I think that a staff of advocates-depute, as we call them, that is to say, a staff of barristers in London, but considerably larger, would be able to overtake the work.

139. *Chairman.*] In short, you would make the public prosecutor final; and if the public prosecutor misconducted himself it would be a subject of investigation?—Yes.

140. With regard to the independence of the Scottish bar; do you think that this system of patronage has an unfavourable effect on the independence of the Scottish bar?—I do not exactly know what you mean by independence.

141. A proper spirit?—So far as attachment to political opinion goes, I believe that they are as independent as any body of men in the country. I should say that there was a great deal of political honour at the Scotch bar; and I think the certainty that, upon a change of Government, the advocates-depute go out, is rather in favour of that.

142. Supposing, as was the case which we were thinking of, the persons appointed held the office *dum bene se gesserint*, judging from what you know of the system, do you think it would have an unfavourable effect upon the character of such a body as the English bar?—It is a very difficult question to answer; I should rather think that, with us, if they were not removed with the Lord Advocate it would give the Lord Advocate more political influence than he ought to have.

143. Or the Attorney-general?—Yes.

144. Mr. *Watson.*] Who issues the warrant to arrest a man charged with murder or theft?—The sheriff.

145. Upon the first intimation?—The procurator fiscal presents a petition praying for a warrant; the sheriff need not grant it if he thinks there is not sufficient ground set forth; he very often does not do it, but orders further investigation. The ordinary course is that he grants a warrant to attend for examination; if upon that examination there is ground for further inquiry, he then pronounces his judgment committing the party for further examination, and then upon that second examination he commits him for trial.

146. How are the expenses of the prosecution paid?—They are now paid almost entirely by the Treasury. They are made up by the procurators fiscal and the sheriff clerk, and those accounts are sent to the Queen's Remembrancer of the Exchequer in Edinburgh and paid.

147. Do you suppose that there is much care to keep down the expenses in the proceedings?—Yes, I can answer for that; the expenses are most rigidly kept down.

148. A question was asked just now about allowing the expenses of witnesses for prisoners; is there any such allowance in Scotland?—No, there is no allowance, properly speaking, for witnesses of prisoners; it depends very much upon the particular case whether assistance is given or not; I have it in my power either to direct the procurator fiscal to include particular witnesses in the Crown list, or if a representation is made of a very important witness or a very poor person, we make an arrangement with those acting for the prisoner, that in the event of its appearing to be a reasonable case after trial, an allowance shall be made.

149. *Chairman.*] With regard to the confidence of the public in the proper administration of criminal justice in Scotland, does it appear to you to be shaken by

by the system, or the contrary?—I think there is very general confidence in it; sometimes there are complaints.

150. Mr. *Watson.*] You have the trial by jury, of course, in Scotland?—Yes.

151. Mr. *Philipps.*] How long has the present office of Lord Advocate existed?—It is a very old office indeed.

152. Lord *Stanley.*] There is a considerable discretion in your hands as to the amount of expense which is thrown upon the State and upon the aggrieved party relatively in the case of a prosecution; it is in your power to relieve the injured party of a considerable part of the expense of the trial or to leave it upon him?—Yes. I may mention, however, that the allowing the expense is a very exceptional case indeed. In an ordinary case, the prisoner provides for the trial, and it is a very rare case, though it does happen, that any allowance is made to him.

153. Mr. *Watson.*] Have you any reason to suppose that by this system any great criminals escape being brought to justice?—I think not in consequence of the system, certainly. Quite the reverse.

154. Mr. *W. Ewart.*] Did you hear it stated by Lord Brougham that the proportions of convictions in Scotland are much greater than the proportions of convictions in England?—Yes, his Lordship stated it quite correctly.

155. Lord Brougham said that there was a similarity between the French office of Procureur du Roi and the Lord Advocate; have you ever compared them?—Yes, I know a little of the French system, though I cannot say I know it very well.

156. Is not the Scotch system far more favourable to the prisoner?—Certainly, as it is worked; but I think it right to say, that while the Scotch system is remarkably well adapted, in my opinion, for the detection of crime (much more so than a system of great publicity), it seems to me essential, in order to make that system safe in a free country, that there should be a very direct responsibility.

157. Is it your opinion that it is of great advantage to the administration of criminal justice in Scotland that the Lord Advocate is a member of the House of Commons?—I think the system would be quite intolerable without it, because it would put in his power that which should not be in the power of any man who is not responsible to Parliament.

158. Therefore you suggest, supposing there were such an officer as a minister of justice, that he should be a Member of the Legislature?—My idea is that he should sit in Parliament like any Secretary of State.

159. *Chairman.*] In Scotland, the tremendous power which exists arises from the fact that practically the Lord Advocate has the power of saying that a man shall or shall not be prosecuted?—Not merely prosecution, but the power of restraining liberty.

160. Supposing it is still practically left open to the aggrieved person to carry on his prosecution, though the public prosecutor refuses to assent to it, that reason would not be so strong?—No; and probably in England it might operate as a check; in Scotland it would not, because the system is so settled.

161. Mr. *Watson.*] Has any complaint ever been made in times of political commotion, of this power of the Lord Advocate to prosecute?—No doubt in the political prosecutions at the end of the last century and the beginning of this, there was a great deal of complaint about it.

162. Mr. *Walpole.*] That might arise again in the event of political excitement running high?—It might, and very probably would, but at the same time the stringency of the Crown law has been a good deal relaxed since then. At that time the judges chose the jury; the list was that of the judges, instead of balloting, as they do now, and there are various other improvements.

163. The juries have much greater power than they had?—Much more real power.

164. Mr. *Watson.*] What is the number of the jury?—Fifteen; and the majority decide.

165. *Chairman.*] I understand you to say that the Scotch system gives satisfaction to the people?—I should say very great satisfaction, and the results necessarily lead to it.

166. Mr. *Watson.*] You say that on the first examination there is a very careful investigation of all the evidence bearing upon the case?—Yes; it very rarely

Right Hon. *J. Moncreiff*, M.P.

12 June 1855.

rarely happens that a crime is not thoroughly investigated. The other day, I had, through the Home Office, rather a violent letter from a man to say that the procurator fiscal had not inquired into some death, and that there should be a coroner's inquest. I was quite certain it could not be so, and sent down to the man to substantiate his charge. It turned out to be quite the reverse; that the procurator fiscal had himself completely investigated it at the time, and found it to be a case of suicide, and not of crime.

167. *Chairman.*] Under your system is it possible for a person to be long confined in prison upon what turns out to be a trifling and frivolous charge, namely, for three or four months?—It is a very rare occurrence indeed; I wish I could say that that is impossible; I have been endeavouring as far as possible to remedy the evil of detentions, whatever the charge be, and it scarcely happens that a person is more than five weeks in prison without a deliverance upon his case, and whenever it does happen, a remonstrance is immediately sent to the procurator fiscal to know how it has come to pass.

168. Could the following case have happened, that a woman was brought up on a malicious charge of bigamy for which there was no foundation at all, the charge most probably having been brought for some improper object, and that she was in prison for four or five months?—No, I think that case could not happen under our system.

169. Mr. *Watson.*] Have you ever exercised the power which the Attorney-general in England has to enter a *nolle prosequi* after a prosecution has been commenced?—Frequently.

170. Reasons arise why the prosecutions should not be proceeded with?—Yes; the course to be adopted would be to instruct the advocate-depute, when the case was called at the circuit, not to proceed.

171. Mr. *W. Ewart.*] Is there not an appeal from the Lord Advocate to the Privy Council or to the Crown in some way?—There is no appeal from the Lord Advocate as to whether a case should be tried or not.

Jovis, 14° *die Junii*, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. Philipps.
Mr. Attorney-General.	Lord Stanley.
Mr. Watson.	Mr. Miles.
Mr. William Ewart.	

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

Thomas Flower Ellis, Esq., called in; and Examined.

T. F. Ellis, Esq.

14 June 1855.

172. *Chairman.*] YOU are a Barrister of considerable standing?—Yes.

173. And are Recorder of Leeds?—Yes.

174. You have been already examined, I believe, on a subject connected with this inquiry; you gave evidence before the Criminal Law Commissioners, did you not?—I sent in one paper, I think, but not on this point.

175. Have you turned your attention to the subject of the appointment of public prosecutors?—I cannot say I have to any extent such as to make my opinion worth being received by the Committee; it has crossed my mind of course very often, but not further than that.

176. As Recorder of Leeds, will you tell us the system adopted in your borough, and why it became necessary to adopt that system?—I fancy it was adopted in consequence of hearing that it had produced very good effects at Liverpool, not on account of any very salient defects which were pointed out: but the change has worked very much for the better.

177. What was the change?—Anybody whatever sent in a bill instructing his own attorney; and occasionally the cases were carelessly got up, and the witnesses were not sufficiently watched: and then it was learned that at Liverpool

pool the system was for the magistrates to bind over Mr. Dowling, the chief of the police; and that plan was adopted at Leeds, not upon any consultation with me. They always bind over either Mr. Reed or Mr. James, who are the two superintendents of police there, not quite filling the same position as Mr. Dowling, but being, more technically, head constables. They are formally bound over; and then the prosecution is put in the hands of one of two named attorneys; because, at the time when the system was introduced, one party, which is called the Liberal party, was very predominant at Leeds, and they were apprehensive that it might look like a party move, and therefore they proposed to the other party to name an attorney; and thus two exceedingly respectable attorneys were named, between whom the business is distributed: and the improvement has been very great certainly.

178. That system continues to give great satisfaction?—It gives me very great satisfaction; it has produced some complaint among prosecutors, who seem to consider themselves *domini litis*, as if it were a civil suit. On one occasion before me the prosecutor sent in a distinct bill, which was found besides the bill which the ordinary attorneys sent in; he claimed to be heard first: and when I found there were two bills, I said, "I must take what bill is before me; but, as one party is bound over and the other is not, I shall take the bill of the party who is bound over; and then, after the trial, I presume the prisoner, if he is indicted on the other bill, will plead either *autrefois acquit* or *autrefois convict*." There was great complaint of this. An application was made to a learned friend of ours, to know whether there was no remedy. After the assizes were over the prosecutor was very much discontented. His counsel informed him that the trial could not be got rid of (there was, I believe, a conviction), but that, if he liked to bring a criminal information against me, and would swear to malice, he could. He did not do that; and no more was heard of the matter.

179. Must there not have been some private feeling on the part of the prosecutor; some view of serving or encouraging some attorney?—I dare say there was something of that sort.

180. How long have you been Recorder of Leeds?—I was appointed in 1839.

181. These prosecutions, I understand you to say, having been carelessly got up, and evils of that kind arising, you adopted the present system?—I did not; it was done by the borough; they adopted it after I had been recorder three or four years; I should not like to overstate the extent of the evil; I did occasionally see carelessness.

182. How does the present system work?—Exceedingly well.

183. Do you find that there are many frivolous and trifling prosecutions?—They are very rare; but I do not attribute the want of that to the institution of a public prosecutor: these attorneys could not but take up a case which the magistrates chose to bind over; they would have no choice; they do not intervene till after it has been before the magistrates; the police come before that, and bring it before the magistrates; then it is put into the hands of the attorneys, and they look it over and see what is wanted; and it is the business of the particular superintendent of police who happens to be bound over, to keep the witnesses together and to see that they are forthcoming, and he generally does that by the instrumentality of the policeman who has seen most of the case; it is always done through a policeman.

184. In the course of your experience, have you paid much attention to the working of the criminal law?—To a certain extent; I see a good deal of it in my own court.

185. What is your opinion as to the fact of prosecutions being carelessly got up from the want of there being a public prosecutor?—I can only say that I have seen some difference in point of degree at Leeds; I do not know that I have seen enough to be able to speak very strongly of it elsewhere. I think I have seen something like it elsewhere, at the assizes; but I should be sorry to speak very strongly.

186. Mr. *Watson*.] Are these attorneys who conduct the prosecutions paid by salary, or by each individual case?—I think they are paid by individual cases. There was a report of Sir John Bayley upon the subject, in which he blamed exceedingly some proceedings which he thought were their's, which they had nothing to do with; he took for ganted that they had set all these things afloat as to which they had no choice. I am almost sure that they are paid by fees.

187. I believe you go the Liverpool assizes; are you aware that the pro-

T. F. Ellis, Esq.

14 June 1855.

secutor in Liverpool is paid by salary?—I am not aware: I know nothing of the criminal system in Liverpool.

188. From your experience since this change has taken place, has it been found satisfactory?—I should say very much so indeed.

189. Has your attention been at all called to the proportion of acquittals to commitments?—Yes: one answers that question of course in a vague way. I should say that, taking the cases which come before me of bills found by the grand jury, we may average the number at perhaps 80 a sessions; I should say that if two are thrown out by the grand jury it is the full number; but I must be understood as putting this of course very vaguely. I should say that of those cases which are tried, where the bills are found, the acquittals may be one in about 12 or 15.

190. On speaking of acquittals upon the merits?—There are technical failures; but they are very rare. If the Committee wish for any return, they can have it. I have returns ever since I have been recorder, so that it goes to any extent. Perhaps I may mention that within the last year there have been very full returns printed, which have been sent up from the sessions every quarter, and which would furnish the Committee with information upon that point.

191. *Chairman.*] Lord Brougham gave us some statistics upon that subject?—For Leeds I could give them for 19 years. My Lord Brougham, as I caught it, spoke of the assizes.

192. Mr. *Watson.*] You have spoken of the sessions; is the same machinery used for commitments to the assizes and prosecutions at the assizes; is the police authority bound over to prosecute, and are there the same solicitors for the assizes as well as for the sessions?—Yes, in cases committed by the Leeds magistrates. The proportion between commitments and acquittals is much more influenced by the magistrates who commit, I should say.

193. Who arranges the costs of the prosecutions?—My clerk of the peace, Mr. Richardson.

194. Has your attention ever been called to whether there is any decrease in the expense of prosecutions since this arrangement has been made at Leeds?—No.

195. I believe, at York, Sir John Bayley and an assistant from the Treasury came down to settle all the expenses?—Yes, and they came down to Leeds; but I think the principal change at the assizes at York was in the diminution of fees to counsel. I do not think there was any serious diminution of payments to witnesses or attorneys.

196. It has been put upon some principle at York, I believe, by Sir John Bayley and the gentleman from the Treasury?—In the case of the Leeds prosecutions, of which I see most, they take the brief beforehand, which will contain the substance of the depositions, to Sir John Bayley, and he marks outside, one counsel so many guineas, two counsel so many guineas: he makes a memorandum, upon which they act.

197. Mr. *Miles.*] That is at the assizes?—Yes.

198. Mr. *Watson.*] Do you think that it would be an advantageous thing to have one of the solicitors whom you mention appointed at a salary for the purpose of conducting the prosecutions?—It does not occur to me at this instant what difference it would make, whether it was at a salary, or whether he was paid for the work he did, because he does not make his work or diminish it.

199. *Chairman.*] If he had the option, if it was referred to his judgment, which would you recommend: the system of a fixed salary, or being paid by each individual case?—If there was a fixed salary you would run the risk of his finding fewer cases to prosecute; supposing his principles not to be very strict, there would be a temptation to that.

200. Mr. *Watson.*] Did you find any inconvenience in former days from having the prosecutions in private hands?—Yes, there was carelessness sometimes.

201. Have you ever known anything like corruption?—I cannot say that I have been able to trace that at all; but, so far as my memory serves, I think I only held the office for four or five years before the change.

202. Can you speak of the proportion of prosecutions in Yorkshire coming from Huddersfield and the country towns?—I have seen very little indeed of them. With reference to a matter which I heard discussed on the former day as to the degree in which the prosecution is the property of the party prosecuting,

cuting, I think some curious information as to the state of our law now, at all events as to the way in which it got into its present state, will be found in the state of the Jersey law (I was on the Commission there), which was founded on the *grand coustumier* of Normandy. What criminal law they had was really nothing but that; and there a public prosecution was nothing but an exceptional case; it was a prosecution in default of appeal by the party injured.

203. *Chairman.*] On the old barbarous system, that it was the individual, and not the State, who was injured?—Yes; and in following out the *grand coustumier*, it is put in this way. If there is no relative near enough, or nobody who will take it up, then what they call *la justice* intervenes. Then *la justice* does it in this way; *la justice* sets to work the *bedeaulx* and the serjeants: I do not recollect all their titles. This is the old system; they took a man; if they had flagrant suspicion, they used to commit him and put him in prison, with little to eat and little to drink; if he stood that for a certain time, which I think was a year and a day, I conceive he was let out; if he did not, he might get out by either confessing or demanding the decision of the *enqueste du pays*, which seems now to be called *la grande enquête*.

204. That is the grand jury, is it not?—No, it sounds like it; but in truth it is the jury for trying the ultimate traverse of "Not guilty"; it answers to our petit jury; what answers to our grand jury, would be these *bedeaulx* and other police authorities; the form, to a great extent, remains, although there is an attempt to bring it into the spirit of the present time. I should say that the case of *la justice* was always an exceptional case; but the way in which it now works is this: there are 12 parishes, and the police of the particular parish in which the offence is committed, find the man upon written evidence guilty or not guilty. If he then denies it, he has a jury of 24, which is the *grande enquête*, answering, as I understand it, to the old *enqueste du pays*.

205. Must that jury be unanimous?—There must be 20 out of the 24.

206. Do you recollect what was the date of the *grand coustumier*; was it not about the beginning of the 14th century when it was drawn up?—You will find it mentioned in the preface to the second institute. In a book called "*Le stille de proceder en pays de Normendie*," and in the *Northmannorum Origo* there is some discussion about it. It seems to have been drawn up at the time when King John was driven out of Normandy by Philip Augustus, and thus it represents what was in the Channel Islands about that time. Sir Edward Coke places the date of the *grand coustumier* about 1229.

207. You have no doubt that the system which you have described to us is a remnant of the barbarous custom that an offence committed against an individual was an offence against him, and that it might be compromised as he thought proper, and that if he was killed, then paying a fine to his relations was a sufficient satisfaction to society?—I have no doubt that that is so historically. I should mention one thing; it is pretty familiar law, though there was a little discussion about it the other day, that the grand jury may find a bill without any witnesses at all. Some question took place about examining the prisoner at the trial. I should mention that in Livingston's Code the following course has been taken: in the Indian Law Commission, on which I have the honour to serve, the question arose whether we should have the prisoner examined by the magistrate; and we had then before us Mr. Livingston's plan, which, in order to avoid the difficulties incidental to making the judge a party and almost a controversialist with the prisoner, provides that certain prescribed questions should be asked, and those only; that is Mr. Livingston's proposal; it is adopted at New York too, Mr. Greaves says.

208. Mr. *Miles.*] Leeds is a corporate town, is it not?—Yes.

209. Is it a new corporation?—It was a corporation of a very different sort; a very close corporation.

210. When was the corporation altered?—Under the General Corporation Act.

211. It now has justices of its own?—Yes; and a court of gaol delivery.

212. Is it confined to the old town, or is there any circuit of country added?—It has a very large circuit; but I think that circuit has been attached to it all along; the population is something near 200,000.

213. And the authority of the magistrates extends through all?—Yes; but the police themselves, I think, do not; I think in one or two of the out-townships they have still parish constables.

T. F. Ellis, Esq.

14 June 1855.

214. That being the case, have you found more difficulty in getting up your prosecutions in those two or three places where they have not the police than you have in the other part of the borough?—Yes; the evidence is not so easily got; but that is a question of police, not of the prosecutor.

215. As I understand, the preliminary examinations take place always at the police office?—Yes; that is to say, it is in the same building as the police office; it is really in the court.

216. By police officers?—Not the preliminary examinations upon which the prisoner is bound over. The examinations which I see are those which go on before the magistrate; the police get the heads of them, of course; I suppose they must take down memoranda for their own information; they are not technical documents.

217. Are you able to compare the last two years before and after these two gentlemen were appointed, as to the failure in justice that occurred under the old system; first of all as to the findings of grand juries, and next as to the number of acquittals in comparison with the number of convictions; are you able to compare the two periods?—I can give the proportions of acquittals and convictions in each case, I have no doubt.

218. Will you be kind enough to forward that information to the Committee?—By all means; I have 64 returns; four every year for 16 years.

219. Are you at all aware what the payments amount to with a population of 200,000, with about 320 criminals brought before you; are you at all aware of the sums of money paid to the different gentlemen?—Not in the least. Those gentlemen themselves, as I think, would be exceedingly valuable witnesses to the Committee; they are, Mr. Markland and Mr. Rawson; they are both of them exceedingly intelligent gentlemen. Mr. Hamilton Richardson, the son of Mr. Richardson, the clerk of the peace, would be also a valuable witness.

220. Does it strike you at all that, though this system may be applicable to large towns, such as Leeds, there would be a difficulty in carrying it out in a large county?—Yes; I should imagine that there would be a difficulty in carrying any central system out where there is a greater area.

221. Of course there must be more than two gentlemen appointed, properly to carry it out; have you ever turned your attention at all to a county which has 16 or 18 or 20 different petty sessions as to the number of gentlemen that must be employed as public prosecutors?—Yes; I should think you would either want a great number, or you would require very confidential local policemen on the spot. Supposing there is a county police, at certain distances there would be some person of sufficient rank who could be relied upon to a certain extent: but that would not be the same thing.

222. *Chairman.*] With regard to the working of the system, the clerk to the petty sessions might collect the evidence and send it to the public prosecutor, might he not, as he does now?—He might. I think there has been, at all events in boroughs, some distinct enactment separating those functions, it having been thought not advisable that they should co-exist.

223. Mr. *Miles.*] Do you think it would be safe to make the clerk of every petty sessions the public prosecutor?—I should not like it; I think I see objections to it. My present impression is, that, when we were on the Municipal Corporation Commission, we recommended that in boroughs the offices should be kept distinct; that the clerks to the justices should not be allowed to conduct prosecutions.

224. At any rate, I collect from your evidence that it would be a most expensive thing in counties; more expensive than at present?—I do not know what the present expenses are; I should feel some little doubt about that. Am I to address myself to what takes place after committal now?

225. If you please?—I will suppose a man committed, and that there is a county public prosecutor, say for the West Riding, a very large district, whose business it is to see that the witnesses are forthcoming. I do not think that the applying, for instance, to the principal policeman within a certain district to take care that those witnesses come, would be more expensive, so far as I can at present see, than the existing mode of a man having to traverse the county who is not an official man, and get them.

226. This is on the witnesses coming up for the trial?—Yes; it must be seen that they are forthcoming.

227. Would not your public prosecutor have to determine whether there is evidence

evidence enough to bring a man to his trial?—That would be before he is brought before a magistrate; after the magistrate has committed, is the intervention which I have been contemplating all along.

228. And not previously?—No; I did not understand any question to be addressed to me on that point.

229. Mr. *Philipps.*] If I understand rightly, these gentlemen are gentlemen selected to prosecute, more than filling the office of public prosecutor?—It is so, with of course a little discretion; they are functionaries, in fact.

230. Lord *Stanley.*] I find that in your printed paper of 1843, you give the following description of the system at Leeds: "The justices always bind over the head of the police as prosecutor, and the conduct of the prosecutions has been entrusted to two attorneys. Two I understand were named, in order that the appointment might not be made the subject of party contest; and each of the two political parties which prevail in the borough has nominated one. All this I state merely from common report; but if true, it shows that one risk in such an arrangement as this is acknowledged to be, that the appointment should become a matter of patronage;" do you now consider that that danger exists?—I think there is that danger certainly; in so far as patronage is a danger, that danger does exist. May I take the liberty of asking where I said that, for I have forgotten it?

231. Before the Criminal Law Commissioners in 1843?—It is a paper which I sent in; I had forgotten it; no doubt it does suggest that that is the risk.

232. Are we to understand that the system described by you there exists still?—Yes.

233. Are you competent to speak as to the manner in which prosecutions were conducted in Leeds before this system was established?—It struck me that they were occasionally careless when I first went there.

234. Did I rightly understand you as saying that the system which you describe here was established before you became recorder?—No; about four years after.

235. Mr. *Watson.*] Under your system the police intervenes first with the criminal?—Yes.

236. He has then to be brought before the magistrates?—Yes.

237. Some legal man must then take up the prosecution?—Yes.

238. Either the public prosecutor, or what may be called the clerk to the magistrates?—Yes.

239. Do you see any advantage in having a salaried public prosecutor, subordinate to the superior prosecutor, to take up the prosecution at that point where the party is brought before the magistrates, in preference to the present system of the magistrates' clerk taking up the prosecution?—I do not think the magistrates' clerk does take it up.

240. In many instances he does; it is done either by attorneys employed by the prosecuting parties or by the magistrates' clerk. Would not a salaried prosecutor be better under those circumstances?—The only two grounds which occur to me as to electing between those two systems are, first, the expense; it might be done more cheaply by a salary; it generally is; and, secondly, the risk, to which I adverted before, that an officer paid, not by the job but by the time, is apt to make the job bear the smallest possible proportion to the time.

241. Are you aware that in getting up prosecutions there is any jobbing on the part of the attorneys and the people who are employed to prosecute?—No; I conceive there can be none now.

242. I refer to the country generally, not to the borough of Leeds?—My experience is very slight.

243. *Chairman.*] With regard to the job and the time, there is no proposal in this case to abolish grand juries; therefore if the public prosecutor refused to undertake the duty of prosecuting, and said that there was not sufficient evidence, would it not be a check upon him, and prevent him from hastily refusing it, if the injured individual might go before the grand jury on his own ground; and if a conviction was got under those circumstances, in which case it would appear that the public prosecutor had neglected his duty, would not that obviate your difficulty with regard to the job and the time?—I do not myself feel the difficulty very strongly; but, if both were left open, there would be that check, no doubt.

244. With regard to the examination by Mr. Miles, I wish to ask you a

T. F. Ellis, Esq.

14 June 1855.

question as the matter now stands; from the moment that the deposition is taken before the magistrate, then is no person responsible for the proper getting up of the prosecution, to use the expression?—The person is bound over.

245. A rich man pays his attorney and tells him to manage the affair; but suppose a poor person is bound over to prosecute, and he goes to some low attorney or some incapable person, there is no public person responsible for the proper management of the prosecution?—No, the only security is the dread of the recognisance being estreated.

246. That is with regard to the man coming forward to give his evidence; but there is no security that the proper evidence shall be brought forward?—Yes, he is also bound to prosecute.

247. But you never heard of a person being punished, because he had not got all the witnesses he might have done?—A common mode of punishing a man in that case is to disallow his expenses.

248. There being no person responsible for the careful and accurate management of the prosecution, which may very well be neglected by an ignorant man, who may do a great deal and yet not succeed in getting up the prosecution so accurately as a trained person would, do not you consider it an evil that there should be no public person responsible for superintending the evidence, and putting it in a proper shape?—Yes, I think it much better that there should be such a person.

249. When you were asked as to the difficulty in large counties, are you aware that England is almost the only civilised country where such a system does not exist?—I have heard so.

250. Mr. *Miles*.] Supposing a poor man loses a fowl or a pig; he suspects some one, from what comes to his ears; does not he immediately go to the magistrates' clerk, and state the evidence which he is about to produce before the magistrates, as regards the person whom he suspects?—No; I think he goes to the parish constable, generally.

251. That is merely to have the prisoner taken into custody?—No. He says, "I have lost so and so; I wish you would look out and see."

252. But if it should turn out that he does go to the magistrates' clerk of the division, and he there states such evidence as he has got, and the magistrates' clerk tells him, "This is not sufficient; you must have such and such evidence, and then come before me; and with such and such evidence, in all probability the magistrates will grant you a summons or a warrant;" is not that tolerable security to the poor man that justice will be done?—I should have doubted that a little; I can only speak of it *a priori*; it would be some security, but I should think not very efficient.

253. Then am I to understand that, from what you know of the magistrates' clerks throughout the country, you conceive them negligent?—No; not from what I know, for I know nothing of it. I do not know the working in the country at all; I merely mean that the man sitting below the magistrates, would not probably be the best adviser.

254. *Chairman*.] Has it not constantly happened to you to observe cases where not a fowl has been stolen but where a child has been ill-used, and where for want of a public prosecutor no pains have been taken at all, and the party has escaped; has not that occurred repeatedly within your knowledge?—No, not within my own knowledge.

255. Take a case even of murder; have you never known cases of murder very ill got up, because there was no person upon whom the duty of getting them up particularly devolved?—I think I recollect one case some years ago; I can mention one case which came before the Court of Queen's Bench a few years ago; it arose upon the question whether costs should be allowed. A man had beaten his child with great severity, and the parish officers interfered; and then the question was whether they had a sufficient right to interfere as prosecutors to be entitled to costs under the Act, and the Court said that they were exactly the proper people, because it would be taken for granted that the child would come to them if abandoned; and they were allowed the costs.

256. And it was necessary that they, not knowing what the decision of the Court would be, should have advanced the money beforehand?—Yes.

257. Supposing they had refused to advance money for the prosecution, or had not advanced enough, the prosecution would have been ill-conducted?—They must have advanced some of the money; enough to take care of the witnesses.

258. Mr.

T. F. Ellis, Esq.
14 June 1855.

258. Mr. *Miles.*] Does not that occur rather from the laches of the law, which does not allow such persons to receive costs, than from the actual want of ability to do it in these persons, who might always be bound over to prosecute in case of cruelty to a child?—It may arise from both, I should apprehend; but the Chairman will observe that this question relates to what takes place before the case comes to the magistrate, and not after.

259. *Chairman.*] Does not it constantly happen that the attorney in a prosecution is obliged to advance money, in order to conduct the prosecution with effect?—He must, of course, or he cannot keep his witnesses together.

260. Mr. *W. Ewart.*] Are you aware that the Society of Magistrates' Clerks, in their answers to the Commissioners on the Criminal Law, particularly recommended themselves as public prosecutors, if the appointment of public prosecutors was necessary?—No; I did not know of such a society.

261. Will you read the answer of the Society of Clerks to the magistrates, in the year 1845, to the question of the Commissioners on Criminal Law, upon the subject of a public prosecutor?—I see that they state that the clerks to the petty sessions would be the best persons to perform the duty. They say, "the whole of these matters," the matters which they have before mentioned, "combined, tend very materially, in the committee's opinion, to the increase of crime; first, by the chance of escaping detection; secondly, by the chance that, if detected, the person injured will not incur the trouble, inconvenience, and expense of prosecuting; and thirdly, if he does, the chance of escape by the want of the case being properly got up against him, as well as the other chances, which the ingenuity of his counsel at the trial may give him unopposed, as is almost always the case at these sessions, by any counsel for the prosecution. To remedy this, the committee suggest the appointment of a public prosecutor to superintend and regulate criminal proceedings through all their stages;" that is, earlier.

262. Mr. *Miles.*] Is that the evidence of one gentleman?—It is by a committee.

263. What is this society?—The Clerks to the Justices Society.

264. Mr. *Watson.*] Is there not sometimes great inconvenience at York, for instance, from witnesses for the prosecution coming first of all to give evidence before the grand jury, and coming subsequently to attend the trial, they coming to York from Sheffield and other places, twice instead of once?—Either that, or being detained during the interval.

265. Mr. *Miles.*] That is from the great number of prisoners?—Yes; there have been all sorts of imperfect attempts to remedy that by classing particular sets of cases; but it works very ineffectually.

Charles Sprengel Greaves, Esq., Q. C., called in; and Examined.

C. S. Greaves, Esq., Q. C.

266. *Chairman.*] YOU are one of Her Majesty's Counsel?—I am.

267. You have paid considerable attention, I believe, to the administration of the criminal law?—I have.

268. And you are the editor of a very important work upon that subject; you published the work of Mr. Russell?—Yes, and I may say that I have attended to criminal law practically from my very earliest years. I began first of all attending petty sessions, where my father was a magistrate with Sir Henry Fitzherbert and others in Staffordshire. I then became a magistrate myself before I was called to the Bar, and I attended the Usk, Hereford, and Gloucester sessions for many years, and the Oxford circuit up to within the last three years.

269. I believe you have been concerned in almost all the important prosecutions both at sessions and on the circuit for a great many years?—In a great number.

270. And you have experience, having acted as a magistrate?—Yes.

271. In your opinion does the want of some responsible person to undertake the management of a prosecution lead to public evil?—Immense public evil. I may add that I am at this time preparing a report for the Chancellor upon the practice of the criminal law, and I have, of course, had to attend to that, amongst other subjects.

272. I believe you assisted Lord Campbell, also, in drawing up some of the Acts?—I did.

273. Your attention has been turned, I understand you to say, particularly to this

C. S. Greaves, Esq., Q.C.

14 June 1855.

this point of the administration of the criminal law?—Most especially so; more, probably, than that of almost any other person. Perhaps the Committee will allow me to point out the defects which I think ought to be remedied.

274. If you please?—In the first place, every magistrate who acts for a county knows that it frequently happens that a serious felony is committed, and nobody is personally interested; there is, consequently, nobody to institute a prosecution. If there were anybody to institute a prosecution, he might not be able to make a charge against any particular person, because he might have no evidence to substantiate that charge. The first defect, therefore, is, that you have no means of originating inquiries, except there be some person suspected, whom you may charge before the magistrates. That, to my mind, is a great and pre-eminent defect. I have no doubt that, in this country, many murderers escape through it, because, although coroners are sometimes very active, they also are sometimes not quite so active; and in cases where there is no coroner, there is no person whatever to institute an inquiry; for if you refer to Jervis's Act (11 & 12 Vict. c. 42), you will find that it is only in a case where some person or other will make an oath that he suspects some person, or that some person has committed a felony, that the magistrates are justified in interfering at all. I own I do not think that is the law, but still that is the law by that Act of Parliament. As a magistrate myself, I have interfered and made investigations, though there has been no charge before me, and would do so again; because it is quite obvious that where people are exceedingly poor, or where, as you suggested just now, a child is injured, or in many cases that can be put, there is nobody whatever to bring forward a charge; and I think that alone a very strong ground for having some public officer appointed, who should follow up what the coroner ought to follow up, and make investigations where very serious offences occur.

275. You say there is nobody to follow up the charge; might it not also happen that a person might pretend to follow up the charge with a view to extort money from the party accused, and then let it drop?—No doubt.

276. Do you believe that that often happens?—I have no doubt in many instances, where charges are made before the magistrates, they are afterwards improperly dropped or compromised to a certain extent before they come to trial. I was going to advert to that.—Then suppose there is a person to make a charge, if there is an appearance before justices or before a coroner, in important cases everybody knows that it wants some superintending mind to manage the case, before the coroner or the magistrates, in order that the facts may be got out; and I may mention this (I dare say it is familiar to magistrates who have investigated it like myself), that though it may appear that the magistrates have the proper witness before them, it is by no means an easy thing to get the facts from ignorant witnesses, those facts being really of importance, and some witnesses not considering them of any importance at all. Therefore you want somebody, at all events in serious cases, before the magistrates, to help them in eliciting the truth, and taking the examinations properly.

277. Mr. *W. Ewart.*] Then there are two evils to be remedied, one as to originating the inquiry, and the other as to managing the case?—Yes.—Then I was going to say, that the next thing is this; suppose a case is determined by the magistrate to be sent to the assizes or the sessions; as a general thing, the magistrate takes no duty whatever upon himself as to the prosecution; he simply commits. It is no part of his duty to say, "You are to employ an attorney, or any particular attorney." My own opinion is, that first of all, attorneys ought to be employed in all cases; and I am clearly of opinion that the proper course is this, that at the time when the magistrate makes up his mind to bail or to commit, he ought to say to the prosecutor, if the prosecutor be a person in such a situation of life as reasonably to be supposed to carry on the prosecution properly, "Do you intend to employ your own attorney?" If the prosecutor says, "I do intend to employ my own attorney," then that attorney's name ought to be marked down on the depositions, and he ought to have the conduct of the case; and no other attorney ought ever to be allowed to have anything to do with the case, or to receive any costs if he does attend to the case, unless there is cause shown to the satisfaction of the court. It is astonishing with how much mischief you have to put up in Staffordshire. It is very well known there, that though the costs are at a very low rate, there is a perfect hunt for the prosecutions by low attorneys, and by those persons who practise in the name of attorneys,

attorneys, but who are not attorneys; the consequence is that they get hold of the prosecutors who are poor, and incompetent to carry on the prosecution; they tell them that they will conduct the prosecution; it gets into their hands, and they never take the least trouble about it, any more than giving counsel a copy of the depositions with the fee on the back of the brief, and they let the case take its chance at the assizes. That is a constant practice, and it is an evil which should be stopped; and what I suggest, I think would have a tendency to stop it. I do not say it is impossible to have some means of getting at the prosecutor beforehand; but still, if the magistrate caused the man to fix upon some attorney, and his name was put upon the depositions, it would prevent any intermediate intervention by improper persons between the time of the committal and of the assizes or sessions. Then there are cases which are taken sometimes before the magistrates, where there is no person who can be properly called the prosecutor; and it is a very common thing, and to my mind a very objectionable thing, that police officers or constables are bound over to conduct prosecutions. Constables are ministerial officers, and in my opinion, their duty is simply to take up a person, to hear what he has to say, and to keep him safely as long as he continues in their charge, and not to interfere in any other way whatever in the prosecution. I have seen mischief enough from that interference in many cases.

278. *Chairman.*] In the term "Constables" you would include police?—Yes; I mean all those persons, whether police or constables, who have anything to do with the apprehension or detention of prisoners.—Then in those cases where there is no person who can be properly called the prosecutor at all, or where, from poverty or otherwise, he is likely not to conduct the prosecution properly, I undoubtedly would give the magistrates the option of either appointing an attorney themselves, or directing the district officer, whom I shall name by-and-by, to appoint an attorney to conduct the prosecution, and to name that attorney at that time, so that you would have then, as soon as a case had got before the magistrates, and they had determined to commit, the case taken up by an attorney regularly in every instance, and carried on to the assizes or sessions, as I think I shall be able to show, in a proper manner, so as to secure the ends of justice, if there be evidence for it. At the present time, between the period when a person is before the magistrates and the period when he comes to the assizes, I find great defects. Everybody who has been in anything like the business I have been in, will know that a great defect exists in not getting up additional evidence, and not properly preparing the case for the assizes or the sessions, whichever it may happen to be. In very many instances, the whole evidence which counsel have at the assizes or sessions is a mere copy of the depositions taken before the magistrates; and it is obvious, especially in the most important cases, that there wants a very great deal more to be done; it is necessary that additional evidence should be got in very many important cases, and if attornies were appointed it would be their duty to do that. Then when you get to the assizes or sessions, your case goes before the grand jury. Now I confess I am not for abolishing the grand jury; I am very strongly in favour of the grand jury; and if necessary, I think I could give strong reasons for it: but the grand jury are placed in a position of very great hardship, and I think they are very unjustly accused for throwing out bills. Just see the situation they are placed in: a number of gentlemen are called together, and they are placed in a room, and they have a document brought before them; it may consist of half the size of this piece of paper, or it may consist, as I have seen it, of 45 yards, as I saw in Barber and Fletcher's case. They have nobody to explain to them the charge in the first instance; that is the first thing; it operates especially at the sessions, because at the sessions the grand jury are generally persons of an inferior order, and very little capable of understanding such documents as indictments. Then supposing they do understand the charge, every one knows that there constantly are cases which are really difficult to bring forward, and really difficult to lay before the petty jury, so as to be thoroughly understood: and yet a grand jury, supposed to be entirely ignorant of the case, are, without any assistance whatever, to be understood to find out the whole of that case in the very hurried manner in which they act, and to come to a satisfactory conclusion upon it; therefore they are placed in one of the most awkward positions which can be conceived, as to coming to right conclusions, even supposing the witnesses tell the truth, or supposing they are examined as accurately as they can be. But it opens this door to great frauds, which are no doubt committed:

C. S. Greaves, Esq., Q. C.

14 June 1855.

mitted: witnesses in many instances are tampered with by persons on behalf of the defendant; and if they do not, at all events, commit perjury, which sometimes is the case, they will do this: they will say, "I will tell nothing more than I am bound to tell;" and they go before the grand jury, and unless questions are particularly directed to them to get out what they know, in such cases they keep back most important evidence, and in that way I have no doubt many bills are ignored. I have made, in the course of my time, a good many inquiries as to the cause of the grand jury ignoring bills, and I have no hesitation in saying that the principal cause is, that the witnesses are not thoroughly examined. The grand jury do not know what questions to put, and the witnesses do not give the whole of their evidence, and that I am quite sure is the principal cause of bills being ignored.

279. Mr. *Attorney-General.*] Have you any experience what proportion of bills are ignored?—I have not; it differs so very much in different counties and in different grand juries.

280. It is a very small proportion, is it not?—I think in some cases it is considerable, and I certainly have known some very important cases in which grand juries have ignored the bill, where there was not a doubt that there would have been a conviction if the case had been properly presented. I have known cases where the counsel on both sides have thrown up their hands in astonishment at the grand jury ignoring the bill. I have no personal knowledge about the number, but I have watched the practice of the grand jury in cases where I have been concerned myself, and in looking at the evidence which I have had in my briefs, I have had no doubt that the witnesses would, if properly examined, have given at all events that evidence; they might have broken down if cross-examined, but I feel quite confident that the majority of the cases which break down before the grand jury are cases in which the evidence is not properly got out.

281. *Chairman.*] That injury is not irreparable, because the prosecutor can go again?—No doubt; but in substance I think I may state, from a long practice, that it is, as I never knew two cases in my practice. I can at this moment recollect only one instance of a case going to a subsequent assizes or sessions where the grand jury ignored the bill at the first. It is no acquittal, no doubt, and it is no bar to another prosecution; but in practice it is so, because you must consider the expense, and I doubt whether any magistrate would bind over, and there is no allowance of costs if the party goes a second time improperly.—It seems to me that there is a means of remedying these defects which I have pointed out, and I think the remedy is the appointing an intelligent district officer. Generally speaking, you may have a district officer to perform the duties which I am going to suggest, for the county; I of course do not mean the largest counties, where there is an immense quantity of crime, but for ordinary counties I think a district officer ought to be appointed, whose duty it should be generally to act as prosecutor till the case comes to trial.

282. Would you have such a district officer go before the grand jury?—I will point out all the duties which I think he might attend to as well as he could. In the first place, I began by mentioning the difficulties in making investigations at present, where there are no known persons to prosecute a serious offence, or where there are only poor persons to take it up; that should be his first duty. If, for instance, he heard of a serious offence taking place, and he did not see any investigation before the coroner, he ought himself to cause inquiries as to that serious offence, to elicit who had committed it, although no person was suspected; and I can illustrate how it would work. Suppose a rick to be set on fire, it is very possible that it may be that nobody suspects anybody, and yet that there may be a chain of circumstantial evidence leading to the guilty person. The public officer should go to the place, and ascertain who were about the place, and make inquiries of them. It is very easy to see, that by making those inquiries, although the evidence of any one person might lead to nothing, the information which he might get from all would make such a chain of circumstances as would leave no reasonable doubt that a particular person had committed that offence; then he would have a charge made before the magistrates, and the case investigated before the magistrates. That I would put as an illustration of the way in which a man might work in such a situation as that. His next duty should be, where a charge of murder was made, or of any very serious capital offence, personally, if he could, to attend either before the coroner or the magistrates, and to see that the case was properly conducted there. I should say next,

next, if he had time, in other serious cases, or where, from the nature of the case, there was difficulty in it, he should generally give his attention to the magistrates' court, to assist them in any difficulty; and in cases where he did not attend personally, he should have liberty to see the depositions, which should be returned to some central place, say the office of the clerk of the peace, for all minor offences. He should look through those depositions, and see whether or not the evidence was sufficient, or whether there was too much evidence, and give directions to the attornies, appointed as I have mentioned, as to what witnesses they should be prepared with, and any additional evidence which might seem to him requisite; or if there were any superfluous witnesses, not to bring them; and I must say, that I think that an officer who did even that would save a great deal of expense, and that cases would be brought very much more satisfactorily into court than at present; for judges are constantly complaining, on the one hand, that there is a witness wanting, and therefore the case breaks down, and on the other hand, you hear them complaining of two or three witnesses being summoned to prove a fact, when any one of them would have done it. That is the case particularly as to the production of property; you constantly have three or four policemen called to trace it through three or four different stages, when any one of them might do so.

283. And producing different articles at the same time?—Yes. Then, supposing the case has been sent to the sessions or to the assizes, the district officer should have power to see that that case is properly managed by the attornies; to say, "What are you doing in this case? Have those investigations which I directed been made?" and to see that no compromise takes place, and that nothing is done to defeat the ends of justice.

284. Mr. *Attorney-General.*] You would not take the prosecution out of the hands of the attorney, and put it into the hands of the agent?—No.

285. Would not that involve a double expense, and perhaps two conflicting views; the attorney for the prosecution might not agree in the view taken by the public agent?—I think the public agent would only be authorised to say this. "In my opinion, such and such witnesses are required for this prosecution. If you have other witnesses, it must be at the peril of your client." I would not give him the power of preventing witnesses attending, but the power of saying "In my opinion such witnesses are necessary," or "such witnesses are unnecessary, and if you produce them I shall say to the court that in my judgment those witnesses were not necessary, and I shall not recommend their expenses."

286. Would it not be better to have a public prosecutor, and for him to conduct the prosecution?—I do not think you can do that.—Then I think the district officer ought to keep his eye on the prosecution till it came before the grand jury, and when the case came before the grand jury I think it ought to be his duty to attend before the grand jury; it should be his duty in the first place to explain to them the charge, and in the next place to see the witnesses called and sworn before the grand jury, as they ought to be.

287. *Chairman.*] You are aware that in Charles the Second's time, in the case of Lord Shaftesbury, the Queen's counsel attended before the grand jury?—Yes; upon the trial of the murderers of Charles the First, the resolution of the judges was, that the King's counsel had a right to attend before the grand jury; you will find that in the first few pages of Kelynge. Then I should say, that on attending before the grand jury the district officer should take no part of course in their proceedings, but he should take care that the evidence was properly got out. It appears to me, as I think I have stated, from that passage in Kelynge, that the Queen's counsel and the prosecutor might attend; and in the Queen's Bench there formerly was an officer, the clerk of the grand juries, I believe he was called, whose duty it was to attend and perform the duties which I have been describing in the grand jury room. That officer was abolished I think by the Act of the 6th Victoria, the Crown Office Act; but though that officer is abolished in name, his duties are still performed by the first clerk of the Crown Office, as I have learned within the last few days from Mr. Robinson.

288. Does the first clerk of the Crown Office attend?—He attends the grand juries.

289. Does he examine the witnesses?—I do not know whether he examines the witnesses or not, but he attends the grand juries, in order to give them any information that may be necessary. Although that officer was abolished by the

C. S. Greaves, Esq., Q. C.

14 June 1855.

Act of the 6th Victoria, there is still a person who regularly attends before the grand jury in order to assist them with advice as to indictments, and so on. In the Eighth Report of the Criminal Law Commissioners, p. 345, will be found the evidence of Mr. Jones, of the Crown Office, who gave very important evidence of the use of that officer, pointing at exactly the same things as I have been pointing at. He points out in strong terms the great advantage which such an officer is to the grand jury sitting at Westminster. At the Central Criminal Court there certainly was an officer whom I have seen present here, namely, Mr. Straight, who used to attend, because I was examined as a prosecutor there; and I believe his duty was to hold the depositions in his hand, and to look at the depositions, and see whether the witnesses told all that they had stated in the depositions, and to examine them if they did not. I rather think that in Durham the same is the case, but I do not know. Those therefore are precedents for having some person, at all events, attending before the grand jury. I think it is, at the Central Criminal Court, by the Central Criminal Court Act; but I do not know how it is at Durham. I suppose, in the Court of Queen's Bench, it is by ancient usage, for I do not know the origin of it; I think if those things were done by the public officer it would tend to prevent the failure of very many prosecutions. I think also such an officer ought to inquire, if a defence was set up before the magistrates, as to that defence; because every one knows that at present, as a general thing, we have no means, as counsel for the prosecution, of knowing anything about the defence. If he found that a defence was likely to be set up, he ought to institute inquiries, because I am inclined to think there are many cases in which fictitious defences succeed when they otherwise would not.

290. Lord *Stanley.*] You mean if a defence was set up before the committing magistrate?—Yes; or if it was offered to be set up. I can mention a very remarkable case which occurred at Gloucester, and I am going to suggest to the Chancellor that magistrates should always be bound to take the examinations of witnesses tendered for the defence, in consequence of that and other cases which have occurred within my knowledge. A man was charged with a burglary at Cheltenham; the watches were found upon him at Brighton; he went before the magistrates and was committed, and they refused to examine his witnesses. When his witnesses were called at the trial they proved an *alibi* in fact. I had not the slightest instructions about them, and could only cross-examine them upon suggestions that came into my own mind; the result was an acquittal; they proved an *alibi* in London, at a particular house named, and the case was that they were all keeping the birth-day or the wedding-day (I forget which) of the owner of that house. The very moment that an inquiry was made afterwards, it turned out that there was no such house or person. If the magistrates had examined that evidence on the first occasion when the man was before them, the whole of that would have been found out, and the man would have been convicted.

291. Mr. *Attorney-General.*] Was that evidence tendered before the magistrates?—Yes, and they refused it.

292. *Chairman.*] Then would not the result be, that the man would hold his tongue, and not bring his witnesses?—Perhaps so; but when a man does tender his witnesses you may possibly calculate that he will tender them again.

293. Mr. *Attorney-General.*] Supposing the result of the inquiry before the magistrates should be, that a very good *primâ facie* case is made out against the party accused, but that he makes out to the satisfaction of the magistrate, and the magistrate believes that it can be made out upon the trial to the satisfaction of the jury, that he was not there at the time, what is the magistrate to do?—I should dismiss it. I will illustrate it by a case: it sometimes happens now that the wrong man is taken up; the magistrates, by not investigating the case, sometimes commit that wrong man for trial; and not only is he wrongfully detained in prison, but the right man escapes. I could mention a very remarkable case of that kind: a person of the name of Yarworth was murdered near Cheltenham, and a man of the name of Bowen was taken up before the magistrates; he offered, before the magistrates, to prove that he was not the man, and that he was at Worcester at the time; they refused to hear that evidence, and when the trial came on the *alibi* was so clear that Mr. Justice Coleridge stopped the case. Now his witnesses not only proved that he was not the man, but gave strong evidence of who was the man; and that man, in the interim, while the other was in gaol, escaped from the country altogether, and got rid of the charge.

charge. Therefore you may not only have a man improperly shut up in prison till the assizes, but also, by not taking the evidence for the defence, you may let the guilty man off.

C. S. Greaves, Esq., Q.C.

14 June 1855.

294. *Chairman.*] Will you be good enough to proceed with the statement of your plan?—I have made the observations which have occurred to me as to the duties of the district agent; in addition to which I may say, that many cases must have come to your knowledge of this kind, namely, where children, apprentices, and servants have been maltreated. It is nobody's duty to take such a case up at all; anybody is regarded as an officious, meddling, busy person if he gives information to the police, or does anything of the sort. I think those cases might well fall within the duty of the district officer; he should keep his eyes and ears open, and if he hears of anything going on likely to produce manslaughter or murder, he should take up the case. Again, I think an officer of that kind would be very useful in preventing public nuisances. Nobody takes up, as a general thing, the prosecution of a public nuisance. He ought to have power to give notice to the party to stop it, and to say that, otherwise a prosecution will be instituted; and in case of its being continued, to institute a prosecution.

295. Would you have the district officer on such a footing that any person against whom an injury had been committed should go at once and say to him, "I have sustained an injury, will you look into it?" without the intervention of the district attorney?—Yes.

296. You consider it a great hardship now, that there should be no person on whom a poor ignorant man can devolve the duty of prosecuting an offence by which he has been a sufferer?—I do.

297. Would you have that district officer on the footing that that poor man should have a right to go to him?—I think a poor man should have a right to go to the magistrates, as now; he should make his complaint, as now, before the magistrates. If the magistrates judged that it was a case to be prosecuted they would commit or bail the prisoner, and upon their committing or bailing the prisoner, the matter would fall within one of the categories which I have mentioned.

298. Then the duty would devolve upon the district agent?—Yes; subject, as I have said, to either the district agent naming the attorney in that case, or the magistrates naming the attorney, who is to conduct the prosecution.

299. Would you not have the district agent an attorney himself?—No; my view of the district agent is, that he should be superior to attornies. It would not do for one attorney to tell another what he should do.

300. Then you do not take the view of the district agent performing the duties of the attorney?—No; I think we want a superintending mind to see that the cases are properly managed by the attornies, the prosecutors, and so on. If we had the attorney to perform those duties, we must have an attorney for a very small district; it is a *reductio ad absurdum.* You cannot have the attorney to conduct all the prosecutions of the county, because he cannot attend to all; he must have agents; but I contemplate having a superintending mind.

301. Has it ever occurred to you to consider this state of things, that the justices of each petty sessions should have the power of choosing their clerk; that that clerk should be paid, not by fees as at present, but by a fixed salary, and should have, therefore, no sort of interest in augmenting the number of prosecutions; that the moment a prisoner was committed, that clerk should send the depositions, in communication with an officer, who should be the agent of the district; that that district agent, according to the importance of the case, should attend before the magistrates for a second examination; but that at any rate it should be the duty of that district officer to attend at the assizes and see that the affair was properly managed?—In substance my plan will do that, and a great deal more.

302. But then you have what was pointed out by the Attorney-general, namely, the difficulty of two attorneys, or rather of an attorney and a district agent, who is to have a sort of official authority over the attorney?—No doubt; but I do not feel the least pressed by that. I allow the prosecutor to select his own attorney, his own attorney going on as he thinks fit. The depositions are returned, according to my plan, to this district agent. The district agent says either, "I think there is not sufficient evidence," or, "I think there is too much." "I wish so and so to be got," or, "I wish so and so to be omitted."

C. S. Greaves, Esq., Q. C.

14 June 1855.

The only effect of that would be in mulcting him in the costs at the assizes or the sessions, if that evidence which was wanted was not brought.

303. Would you not divide the responsibility between the attorney and the district agent?—I think not.

304. If you had an improper case brought, or a failure of witnesses, the judge would at once say, "How happened this"?—If it happened in consequence of the district agent saying that those witnesses should not be brought, and they were not brought, it would most justly fall upon the district agent; and what I find in practice very often is this, that the attorneys now dread bringing witnesses who are really necessary, for fear of being blamed. I have known cases break down at sessions and assizes in consequence of that. I can give two remarkable instances of murder. One occurred at Gloucester five or six years ago, of a murder by poison. It was of the greatest importance to show that that poison had been bought at a particular shop: in consultation, the attorney told me that he had such a witness to prove it. I inquired into his character and so on, and I had doubts as to his being a proper witness to support that fact; I asked, "Was there anybody else in the shop?" The answer was, "There was a little girl;" and I directed her to be sent for. The witness in question broke down completely in about three minutes, upon cross-examination; if it had rested with him the case would have been gone. The little girl completely set up the case. She was a perfectly credible witness, and the consequence was there was a conviction. There was a case occurred, I think two years afterwards, which was just the reverse. Only one witness was called for a similar purpose; he broke down upon cross-examination, and the prisoner was acquitted of a gross murder. In both those cases I had pretty good reason to know that only one witness was provided, for fear of a lecture at the assizes for having called two witnesses.

305. Judges take very different views?—Yes; a district officer would be very useful to prevent that; he would see where the pinch of the case was, and would direct such things to be done; and I have reason to know that the attorneys in most instances would be most glad to have such an officer, taking the responsibility off their shoulders as to what witnesses should be called and what should not.

306. Then you would not have a public prosecutor in the sense in which that officer exists abroad, a person who should be responsible for collecting the evidence for the magistrates, and for bringing the case into court; but you would recommend that there should be communication with a district officer who should give advice to the attorney selected by the prosecutor?—Certainly, that is my view.

307. Would that get over the difficulty which now so constantly arises from struggles between low attorneys and combinations between policemen and attorneys to get hold of particular prosecutions?—I think it would, coupled with what I have mentioned, that at the time when the case was before the magistrate, the attorney should be named. Having acted as a magistrate, I know practically how these things happen. In nine cases out of ten, the prosecutor comes to the magistrate for a summons or a warrant upon a charge; the magistrate then issues the summons or the warrant, and the man is brought before him. During that time there is no certainty whatever of there being a prosecution; there is a chance, it is true; but I do not think it would be found to be worth the while of the low attorneys to get hold of prosecutions at that stage; I do not say cases might not occur.

308. To return to the main point, as to the change of the present system: is it within your knowledge that it is often requisite for the attorney to raise considerable sums of money in prosecutions?—Undoubtedly it is.

309. Do you consider that a great evil?—I do; and it checks prosecutions.

310. Is it not within your knowledge that many cases of great importance break down for want of the funds which are requisite to bring the evidence before the court?—I believe they do; and I would observe, that my view when recommending this officer is principally with reference to the most important cases, for it is exactly in the most important cases that the mischief tells the most. The most important cases are generally cases of circumstantial evidence; they are generally cases requiring important witnesses to be examined, and carefully examined, and the evidence properly got up; and therefore the evils of the system tell very much more with them than in any other case.

311. In cases of murder, does it not very often happen that there is nobody having a direct personal interest in the investigation of the murder?—Very often.

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As a general thing, in the lower ranks of life, nobody takes up the prosecution in a case of murder.

312. The attorney advances a large sum of money, and is very often out of pocket by it?—Yes. A very singular case is mentioned in the evidence of Mr. Shepherd before the Criminal Law Commissioners; that was a case of murder. He was directed by the magistrates to investigate the case, and I think he says that he was 40*l.* out of pocket, after being complimented for the way in which he had got up the case. His statement is this: "I will mention a particular case, which occurred to me four or five years ago. A most atrocious murder took place in my division; the woman who was murdered was a poor labourer's wife;" and so on. "The murderer shot her and burnt her;" and so on. "The coroner sat upon the body, and one or two of the division magistrates came over to me, and said, 'We think this is a case requiring looking to; perhaps you will see to it.' Of course they had no power over me to tell me to do it. There was no person whom I could look to as the prosecutor; the parties were all poor. It was since the operation of the Poor-law Amendment Act, and I knew the parish could not pay. I took the hint and went to work, and upon the exertions which I made the case was made out, upon the evidence of, I think, six witnesses, sufficient to induce the coroner to commit. I saw the magistrates again afterwards, and they said, 'This is really a case which ought not to go unprosecuted; we do think the thing ought to be taken up.' Of course I understood what that meant; it was not anything which compelled me to do it, but still I felt I was in duty bound, as what I should like to see generally, the public prosecutor of the division to take the matter up: I did so. I had occasion to get witnesses from Manchester, where the party was apprehended. I subpœnaed 20 witnesses, independently of those whom the coroner had bound over. The case took from nine in the morning till eight at night; the party was convicted and executed, and I think a clearer case never went into court. I had the satisfaction of receiving the compliments of the judge and the bar, and of my brother clerks, who said the case was well got up; and I had the satisfaction of losing about 40*l.*"

313. That was a case in which society was immediately interested in the investigation?—No doubt.

314. Is it within your knowledge that profligate men often take up prosecutions for the sole purpose of being bribed to withdraw them?—I have no positive knowledge of it; I have no doubt it is the fact.

315. You believe it to be the case?—I believe it to be the case. I have no doubt that in Staffordshire prosecutions are got hold of in order to get money anyhow.

316. Would not a low attorney, for instance, have great means of oppression by indictments for riots and assaults in country districts?—No doubt.

317. However you may differ as to the details, you agree in this, that it is desirable, for the administration of justice, that there should be some person responsible for the proper management of criminal prosecutions?—I am quite clear of it; and I am quite clear that anybody who has had experience of the working of the system must see that that is the great defect in it.

318. And that at present our system is lamentably deficient in that respect?—I am quite clear of it.

319. Lord *Stanley*.] I understand your plan to be this, that you would have an officer appointed as public prosecutor in every district in correspondence with some officer of higher rank in London?—Yes. I have confined myself at present to the proceedings up to the trial. Staying there, I was going afterwards to point out that I would have a counsel in London, to whom the district officers should be entitled in all cases of difficulty to refer the cases for advice. So that if a case occurred in which there was a difficulty as to the evidence or the indictment, the evidence should be sent up to that person, and that person should direct what was to be done.

320. Have you formed any estimate as to the number of such local officers who would be required in the country?—My own impression is, that in ordinary counties one would be sufficient; in counties where there is a vast deal of crime I think two would be sufficient, generally speaking. I would not venture to speak positively upon that subject, but that is my impression.

321. I suppose you would make it imperative upon such an officer not to engage in any private practice, that the whole of his time should be given to the

C. S. Greaves, Esq., Q. C.

14 June 1855.

duties of his office?—I would make it his primary duty to attend to the duties of his office, so that nothing should interfere with the discharge of them.

322. Would you allow him to practise on his own account, or not?—I do not necessarily say that he should be a person in practice at all, because I think you may meet with persons of such great intelligence and activity as to be quite equal to a professional man. I would not necessarily prohibit him from practising; the only limit that I would put would be, that he should not do anything to interfere with the discharge of his duties. I would lay down a regular scale of his duties, and I think there would be times when he would be perfectly idle if he did nothing else. Very often in the counties you have not heavy cases occurring for several weeks at a time, and then, perhaps, you have an inundation of them, and several occur close together. As to the ordinary duties which I have pointed out, the superintending the depositions and giving advice, those would take comparatively little time.

323. Mr. *W. Ewart.*] Then if he were a professional man you would not prohibit him from practising?—No; I would prohibit him from any practice which would interfere with the discharge of his duties.

324. Lord *Stanley.*] Would you not expect that he should be a person of some considerable professional knowledge?—I do not think it requires any great knowledge; I think, for the duties which I have pointed out, a great many persons possess sufficient knowledge to perform them perfectly well.

325. Mr. *W. Ewart.*] Would he not require a knowledge of the criminal law and of the law of evidence?—I think he would, to a certain extent, undoubtedly; but I do not think that knowledge would be so great as to require a first-rate man in that respect.

326. Lord *Stanley.*] Have you formed any idea of the salary that it would be desirable to give such an officer?—Yes, I think I should give such an officer somewhere about 500*l.* a year for a county.

327. By whom would you have him appointed?—By the Government.

328. Not by any local authority?—No, I should not. I think it is better for public officers to be appointed generally by the Government.

329. You would have him appointed on what tenure of office?—As long as he conducted himself well.

330. Mr. *W. Ewart.*] Are you aware that in Scotland, where they have such an officer, he is not appointed by the Government?—No, I am not aware how that officer is appointed.

331. *Chairman.*] You mean a superior officer?—I mean a superior officer.

332. Lord *Stanley.*] In the case of a large county, where more than one such officer was required, would you have one such officer at the head of the business of the county, and the others acting as deputies under him; or would you have the county divided for the purposes of such appointment?—I would rather have two distinct officers, each exercising a duty, such as I have described for a single county.

333. Then, in short, your plan comes to this; you would have probably from 60 to 70 such officers, receiving on the average 500*l.* a year each, and permanently appointed by the Government?—Yes; and I think in three years' time they would save their salary in the amount of property saved and the protection of person alone, without other things.

334. On whom would you throw the expense; upon the counties or upon the Treasury?—I should say upon the counties; because I calculate the benefit to arise to the counties. I have no doubt that the more efficient you make your criminal procedure, the greater protection you will afford to person, and the greater protection will you afford to property; and you will find, if I am not greatly mistaken, from all the returns from the counties in which police have been established, that the security of life and property is infinitely greater than it was before those police were established at all. This would be carrying out that system still further, because I have no hesitation in saying, that instead of having 30 per cent. acquittals, which is the case in some parts, you would have very few acquittals. I think the district officer should, in connexion with the Crown counsel, have the power which the Attorney-general has of stopping improper prosecutions. There are cases which, in point of law, do not amount to felony or misdemeanour; or if they do amount to felony or misdemeanour, the evidence is not at all sufficient to put a man upon his trial, and I would vest

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the joint power in the district officer, with the sanction of the Crown counsel in London, of stopping those cases.

335. *Chairman.*] Is not that a larger power than is vested in any person whatever below the rank of a judge?—No, the Attorney-general has the power now of entering a *nolle prosequi*, as exercising the power of the Crown.

336. Practically that is not exercised?—No. I would let it be open to the option of the court, if the court thought it right to proceed with the case, to let it proceed; but I would recommend that the Crown counsel, in conjunction with the district officer, should have the power to stop it. In Mint cases, in Bank prosecutions, and in Post-office cases, the evidence is invariably laid before particular counsel, and they act upon their opinion whether or not the prosecution ought to go on at the expense of the different parties. It is true they have not the power, as I suggest there ought to be, of stopping the prosecutions.

337. You would have a counsel to whom reference should be made?—No doubt.

338. Would you have so many counsel on each circuit?—No, I would have one counsel in London; because one great object of my scheme is to get a uniformity of practice throughout England if possible, as I am quite sure that the happiest results would arise from it; I would have one counsel in London who should be the referee, and who should direct proceedings in all cases of difficulty.

339. Lord *Stanley.*] Reverting to your proposition that these officers should be appointed by the Government, but paid by the counties, does not it strike you as an objection that you would have local expenditure without local patronage?—I do not see the objection to that. I think the objection would come more forcibly to vesting it in the patronage of the magistrates of the county or an election by the county. I think it is likely that in London a more qualified man would be ascertained than in a county, for instance.

340. Mr. *W. Ewart.*] Would you appoint any subordinate officers under the district officers?—No.

341. Do you think the district officers would be sufficient?—I do; quite.

342. Mr. *Miles.*] I wish to clear up a part of your evidence relative to the officer appointed by the county, or two officers, or whatever number may be appointed for the county, instituting in certain cases preliminary inquiries. You intended your evidence, as I understand, only to go to cases of murder?—Capital cases, and cases which clearly from their nature require investigation.

343. And there you would not only give the district officer the power before magistrates, but before coroners likewise?—The coroner, in his own case, of course, will sit, but the case to which I meant it to apply was not the case, generally speaking, where the coroner took up the investigation, but the other cases. The principle of the coroner's court is, that wherever a death occurs under suspicious circumstances there shall be an investigation, though nobody is charged. My view extends that principle to other cases standing *pari ratione*. If a house is burnt down with a person in it, and nobody is suspected, nobody can be charged; that is a case which, in my opinion, should be investigated.

344. You gave us an extraordinary case which you quoted from the Eighth Report of the Criminal Law Commission, in which, from the circumstance of some magistrates being present at the coroner's inquest, a prosecution was instituted?—No, they were not present; but they knew of the case, and desired their clerk to conduct the prosecution.

345. From your great experience, in how many cases in the year, generally speaking, do you conceive that a gentleman placed in that position as county prosecutor would have to act in the initiatory proceedings?—I do not know how many, and for this reason: of late years I have not lived in the country, and therefore I am not practically acquainted with those cases with which in former times I was, when such cases were pretty numerous, and very serious crimes were committed. I have known cases of arson in several instances which have occurred, when it has never been discovered who the person was, and no investigation has taken place, in consequence of there being no power to investigate. My own impression is, that in a county the number of serious offences might amount to 12 or 14; I do not think they would be a greater number.

346. Instead of returning the depositions as you do now, after they are taken, to the clerk of the peace, would the return be to the public prosecutor?—I should say, to the clerk of the peace, with a power for the public prosecutor to see them.

C. S. Greaves, Esq., Q. C.

14 June 1855.

347. Would it not be very much better that the return should be immediately made from the magistrates' clerk to the public prosecutor?—I have no objection to that, if it is thought right.

348. And that then, having been inspected by the public prosecutor, they should be returned to the clerk of the peace?—Yes.

349. So far as regards ordering a prosecution, I think you stated that the magistrate, in cases of poor people, should order an attorney?—Yes, that he should either order an attorney himself to take it up, or direct the district officer to order an attorney to do so.

350. Who is to pay the expense of that?—The expense must be properly paid by the county. When I say by the county, I mean out of the same fund as it is now paid from. I believe it is by the Government.

351. *Chairman.*] By the public?—Yes, in the same way as all other expenses.

352. Mr. *Miles.*] The state of the case, with the gentleman whom you would recommend as a public prosecutor, would be this, that, except in capital cases, he would not take the initiatory proceedings?—No.

353. That everything would go on before the magistrates as at present, except that, supposing a poor person came, the magistrates should order an attorney to prosecute?—Yes.

354. That the evidence would then be sent by the magistrates' clerk to the public prosecutor?—Yes.

355. That the public prosecutor would then determine whether or not there was sufficient evidence to convict?—Yes.

356. Or whether there was a superfluity of evidence?—Yes.

357. That he would have the power of stopping a superfluity of evidence going before the court, or he would have the power of getting any additional evidence he could, and that at the same time, as I understand, he should sit as an *amicus curiæ*, if I may use the expression, to the grand jury?—Yes, that is the general view. I do not say that he should prevent witnesses attending; all I say is that he should say to the attorney, "I think such and such witnesses unnecessary," or, "I think such and such witnesses ought to be procured;" and it would be for the attorney, at his peril, to do the one or the other.

358. Mr. *Attorney-General.*] Does not it strike you that there is some little anomaly in making a man, clothed with the character of public prosecutor, sit as *amicus curiæ*, and exercise a quasi-judicial authority with the grand jury?—I do not give him any authority or any power with reference to the grand jury, but merely to give them information, and to inform them as to what the charge upon the indictment is, and to see that the witnesses tell the whole of their story.

359. Would it not be better for the public prosecutor to lay the case before the grand jury at once, not merely as an assistant, but as discharging the functions of a public prosecutor?—It seems to me that what I mention would be sufficient; it seems to me, that the failure which now arises, arises first of all from not understanding the charge, as I think the grand jury do not at the sessions; and secondly, if they do understand the charge, from the evidence not being got out, and I think anything to meet that would be sufficient.

360. Would it not occur to you as better, that the depositions should in all cases be sent to the district agent, and not only in the more important cases?—I have suggested that my view is this: that in all the important cases, murder and capital cases, he should, if possible, personally attend the investigation; that in all cases where he does not attend, the depositions should be sent to him, in order that he may see whether or not the evidence suffices, or whether or not there is a superabundance of evidence.

361. A part of your scheme would be, that where the district agent sees any difficulty he shall put himself in communication with the district counsel?—I do not advise a district counsel. I advise a single counsel in town whose duty it should be to answer all questions from the district agents; that if the district agents have any difficulty as to the evidence or the indictment, they should send up the depositions and a statement of any additional evidence they may have to such counsel, and act upon his advice.

362. It forms no portion of your scheme that there shall be the appointment of counsel in the various districts to conduct the prosecutions?—No. I have a very strong objection to appointing any such counsel on the circuit, or at the sessions.

363. Mr. *Watson.*] Where a person, for instance, is so poor that he cannot prosecute, or cannot obtain an attorney, by what means is the attorney to be appointed by the magistrate?—Either by the magistrate, or the magistrate should direct the district officer to employ one.

364. And you would have his name introduced upon the depositions, and that he should be irremovable, excepting by an order of the magistrates or of the Government?—I would propose that no other attorney should be allowed costs at the assizes, unless he satisfied the court that there was good ground for the removal of the attorney named.

365. Do you think you would by that means ensure greater certainty?—I am quite sure of it.

366. Has the subject of prosecutions from malicious motives entered into your consideration?—Yes.

367. What effect would the person of whom you speak as public prosecutor, have upon those?—I think he would have the effect of stopping them. My suggestion is, that no prosecution should be stopped at all without his sanction. We constantly have in court, a counsel get up and not offer any evidence; I would not permit that to be done, except with the concurrence of the district officer. I think you will probably have evidence of a most extraordinary case which will be mentioned to you. It is easy to conceive that where there is either no person, or a poor person, to conduct the prosecution, the prosecution may get into the hands of some friend of the prisoner, and that he may actually instruct counsel to prosecute, and thereby compromise the case.

368. And such a thing may happen as a prosecutor being bought off?—Yes, and no doubt it does; and no doubt low attornies play into the hands of other low attorneys, who are attorneys for the prisoners.

369. There is a class of cases which never go before magistrates at all; for instance, indictments for conspiracy, and sometimes for perjury; what is your scheme as to those?—I am going to recommend, in my report to the Chancellor, the forbidding those cases going before the grand jury at all, unless they have been previously investigated by the magistrates, or the court shall permit them to go, not having been investigated, because I see the greatest mischief in it. A man is charged with perjury, or a man is charged with conspiracy, and the first he hears of it is a warrant issued by the court for his arrest, and a bill found and prosecuted. I think that should be stopped; but at the same time I would not make the decision of the magistrates, even of dismissal, final, but subject to an application to the court that the party might prefer his bill.

370. Would not this do, that he should submit his bill to the public prosecutor before such a proceeding from private motives was instituted?—That would not meet the difficulty. A man wants to know what he is charged with; therefore, if you only gave the sanction of the public prosecutor to the prosecution, unless you compelled the person to give the evidence, or a minute of it, to the defendant, that would not effect my view.

371. You are aware that a great many prosecutions are instituted purely for procuring money, or to enforce civil rights?—Yes. Nothing is so common as that where there is a bill in Chancery, and a man makes an answer to it which does not satisfy the person who filed the bill, an indictment is preferred for perjury; the first thing you hear of that indictment is upon the man being arrested.

372. There is another class of cases, such as assaults, which combine both civil and criminal remedies, and also the repair of roads and bridges?—Yes; with regard to the repair of roads and bridges, those are cases of a civil character; and I would suggest whether they should not be turned into really civil cases. There is, first of all, the expense of going before the grand jury, and, excepting indictments framed under the Highway Act, that is always at a different assize or sessions from the assize or sessions at which the case is tried; you therefore have a double attendance of witnesses; and if a hundred is liable to a civil action in a case of robbery, I do not see why a division should not be liable in a case of that kind to an action also.

373. What is your view upon assaults; a trifling assault, for instance; what course would you suggest as to that; that it should go before the public prosecutor, or that the leave of the court should be obtained?—In practice those cases very rarely come before the assizes or sessions; there is no power in a trifling

C. S. Greaves, Esq., Q. C.

14 June 1855.

case to award costs, unless bodily injury is done, and that stops most of those prosecutions.

374. Then the prospect of costs, I collect from you, has an influence in prosecutions?—Yes.

375. The prosecutor would not go on unless he got his costs?—No, especially with poor people; it is the only remuneration they have.

376. You have paid very great attention to all these matters; is it your opinion that, by having such an officer as you suggest in prosecutions at assizes and sessions, the expenses would be reduced?—I am quite clear that the expenses would be reduced, and the certainty of conviction would be very much increased; and the very strong reason I have for recommending this system is, that I am quite satisfied that the increase of crime has very much arisen from the uncertainty of convictions. I am quite clear in my own mind that every acquittal has a tendency to create more crime; and therefore, exactly in proportion as you diminish acquittals you make person and property more secure.

377. Mr. *Miles.*] You mentioned cases of assault coming before grand juries; you are perfectly aware that in many cases it occurs that a man prefers before the magistrates his complaint of assault; the magistrates dismiss that case, and if the man happens to be down as a witness in another case before the grand jury, he has the power, notwithstanding the dismissal before the magistrates, of preferring an indictment on his own showing before the grand jury?—Yes.

378. The grand jury on that showing find a bill; does not it often occur that an unfortunate individual who has been acquitted before the magistrates has at very great expense to himself to bring a great number of witnesses for nothing?—No doubt.

379. Of course you would do away with that?—Of course. My proposition is, to prevent the grand jury having any bill whatever before them, except the case is sent by the magistrates, or except the court give leave for a bill to be preferred before them, so that in those cases, in order to have authority to go before the grand jury, the man must make an application to the court for leave to go before the grand jury; and in order to provide for that, I recommend that the depositions in all cases being taken before the magistrates, whether the case is dismissed or not, shall be sent to the court where the case would be tried, and the court will have that evidence to judge of, as well as the statement made.

380–81. *Chairman.*] Would not that be putting the court in the place of the grand jury?—No, I think not.

382. If a man prosecutes without cause he is liable to an action for malicious prosecution?—No great good is done by that; the great point is to prevent injury to the party; a man who is a pauper may prosecute.

383. Mr. *Philipps.*] Have many cases of that sort come to your knowledge?—Yes, a great many; a very large expense was incurred in one case where the witnesses had to come from Devonshire; I think 200 *l.*

384. Mr. *Miles.*] In cases in which the magistrates have committed, and the depositions are sent to the public prosecutor, and the public prosecutor, upon looking over those depositions, does not think there is sufficient evidence to convict, I do not think it is clearly stated what would be then the course of action pursued; will you be kind enough to state it?—It must be a perfectly clear case of there being no evidence to convict; if there be any question for a jury he should not stop the case, and he should never stop it except with the concurrence of the Crown officer in town. He should do exactly what the Mint and the Bank officers now do; saying "This is not a case for a prosecution, and therefore it should not go on." He should have the power of setting the prisoner at liberty, subject to an application to the court.

385. Do you propose that to be done under the signature of the gentleman in London?—The prosecution should be stopped under the joint signature of the two, and then the district officer should have authority to send a discharge to the gaoler, or a notice to the persons bound over to appear not to appear.

386. Mr. *W. Ewart.*] I understand you to restrict the action of this district officer to capital cases?—No, not entirely so; as to his personal action in attending before magistrates and coroners my present impression is this: first of all I say he should in all cases of murder and capital cases give his personal attendance, if possible; and I say "if possible," because it may so happen that two cases may occur

occur concurrently, so that he cannot give his attendance to both. Then I say, in addition to that, in the next class of important cases, if he has liberty and time, he should attend to that duty; cases where the sentence of transportation for life, for instance, is usually passed; and then, in all the rest of the cases, that the depositions should be looked at by him.

387. Mr. *Miles.*] You could not put it in "if he has time enough to do it;" but the duties which he has to perform must be clearly laid down?—No doubt.

388. *Chairman.*] There is one point to which I have not called your attention, with regard to allowing witnesses for prisoners; have you turned your attention to that?—I have.

389. Is it your opinion that witnesses ought to be called at the public expense, to facts for prisoners?—I will explain what my opinion is. Lord Brougham has a general resolution, as you have seen, I have no doubt, that in all cases where there is an acquittal or the grand jury does not find a bill or the prosecution fails, the prisoner shall be allowed his costs. I am quite clear that that would not do at all; I am quite clear that it would be a great inducement, in the first place, to set up fictitious defences, and it would in a multitude of instances be paying the really guilty their costs. But I am quite clear that cases do occur, where innocent persons are sent to the assizes or sessions, and I think that justice requires, as they are sent for the benefit of the community, in order that public justice may be done, that if the public send them there, and have them tried wrongfully, the public should pay the expenses of their defence.

390. It is a shocking thing to hear a prisoner say, "I could have proved so and so, but my witnesses are poor and could not come"?—Yes, I think the only course to be adopted is this, which I am prepared to suggest: that the court should have a discretionary power if it *bonâ fide* had reason to believe affirmatively that the man was innocent, to grant the costs of the defence, but not otherwise.

391. The French system is, that the witnesses are sent for by the Crown; the prisoner states the witnesses whom he wants sent for; they are put down on a list, and the witnesses are summoned in the name of the Crown. With a public prosecutor, do not you think that something of that sort might be adopted, not as respects witnesses to character, because it is very remarkable that the case has been a good deal considered by French jurists, and they found that calling witnesses to character led to such enormous abuse that they gave it up?—I do not think that that would do, because it would lead exactly to what I state, namely, to any sort of defence being set up and attempted. I think you must limit it to cases where there is reason for it. The reason for giving a prisoner costs is, that he is improperly prosecuted; that is, because he is an innocent man, and you must limit the payment of costs to those cases. The difficulty is, to ascertain what those cases are, to which I have turned my attention very much. I have known a case apparently entirely break down. I have known the judge read a lecture to the prosecutor, and yet I have no doubt that the man was really guilty, and if a subsequent investigation had taken place, it probably would have been proved that he was so.

392. Mr. *Attorney-General.*] You suggest that the court should have authority to direct the payment of the expenses of a prisoner, supposing the prisoner to be acquitted, if the court was satisfied that it was an improper case for the man to be put upon his trial, and that the charge was without foundation. That can be brought to the knowledge of the court only by the production of the witnesses, and we are considering this case, that a man may have witnesses to bring forward who could vindicate his innocence, but has not means to do it?—I have taken that into my consideration, and I think I mentioned that it was one of the duties which I had put down for my district officer, that if a defence was made before the magistrates, it was to be investigated by the district officer. If the district officer found that that defence was really one that should come into court, and was also satisfied that the prisoner was too poor to bring his witnesses, he should have the power of ordering those witnesses to attend, or serving them with subpœnas to attend, in order to give evidence. I also suggested that in all cases where the district agent did that, it should be a ground for the court, in its discretion, if it thought fit, allowing the costs of those witnesses so summoned, even though on the trial the court might not be satisfied of the innocence of the prisoner; because inasmuch as those witnesses would be forced by the public officer to attend, after examination as to whether they should attend

C. S. Greaves, Esq., Q. C.

14 June 1855.

or not, I think they should not be summoned to attend, and pay their own expenses.

393. You would leave that to the discretion of the public prosecutor?—I would have him as an assistant. Whenever he knew that a defence was going to be set up before the court, I would have him investigate that defence. Supposing the man was in gaol, and said to the gaoler, "I have witnesses, but am too poor to procure their attendance;" he might notify to the public prosecutor what the case was; and I would suggest that the public prosecutor should be entitled, if he thought fit, to send those witnesses to the assizes.

394. We may consider it just possible that the public prosecutor, though no doubt efficient in the discharge of his duties, might sometimes run a little beyond his discretion; he might say, "I am satisfied that this man is guilty, and that these witnesses would be of no use, and I will not sanction their production;" would you leave a concurrent discretion with the magistrates if they were satisfied?—One suggestion which I have made is this. I have assumed, in some instances, that the district officer may not be adopted, and I have said that I should leave the discretion in the visiting justices of the gaol, with the assistance of the gaoler; for this reason, that he has probably better means of knowing what the defence is and the reason of it, than the local magistrates; the prisoner has the means of communicating with the gaoler in gaol, but he has not with the local magistrates, who are at a distance. I should be glad to find out any scheme which would effect the object. The object is a laudable one, but the difficulty is to find any scheme not open to some objection. If you leave it to the court, the case suggested by the Attorney-general arises, of not having the witnesses there. I can give two very remarkable instances, in both of which acquittals took place, and in both of which probably convictions and executions would have taken place if the witnesses had not been called. Two men were tried for a capital offence at Gloucester. One of the men was able to make a speech, and fully impressed my mind that he was an innocent man; he stated where he had been, and where the other prisoner had been. I suggested to the learned judge that he should ask the constable whether, as far as he knew, the prisoner's statement was correct as to witnesses who had attended the county assize town till the day before, but who could not stay any longer; the constable confirmed the prisoner's statement; the witnesses were sent for by the learned judge, and a distinct *alibi* was proved. At Shrewsbury, a man was tried for murder; and on his defence, he stated that his son was kept in the workhouse on the part of the prosecution; and that he could give most important evidence to contradict the principal witness against him. The witness was sent for, and he came and gave such evidence in contradiction of the other witness, that the jury acquitted the prisoner. Both those cases were before Mr. Justice Patteson. Those cases clearly show the great necessity of prisoners having their witnesses present to be examined; because it is obvious that any investigation at the Home Office, after conviction, is not half so satisfactory as in a public court.

395. *Chairman.*] Then your plan would be, that after hearing the case, the judge should certify that in his opinion such and such witnesses were proper witnesses to be called, and that on his certificate their expenses should be paid?—Yes, and I would not limit his certificate to what appeared at the trial. After the termination of the case, I think the district officer should make any inquiries which the court directed him to make as to witnesses of that sort, and as to the man himself.

396. And in some cases you would allow the expenses to be anticipated, where the district officer thought it a proper case for investigation?—I do not see how you can anticipate the costs; I have not stated that. I said that he should cause the witnesses to be subpœnaed or to attend; not that he should anticipate the payment of any expenses.

397. Mr. *Miles.*] Do you not think that, inasmuch as, generally speaking, particularly in minor crimes, the person who is taken up belongs to the district in which the crime takes place, it would be much fairer to him if you were to allow his friends, if he could get them to do so, to come forward for nothing and sustain his case before the magistrates who were hearing the case, in order to decide whether it was a case for committal or not, and that it would be very much better then to allow the magistrates themselves to be judges, having heard both sides of the case, whether they were proper witnesses to be called in his defence

defence or not, and that upon their certificate the expenses should be allowed?—I am not quite sure that that would do, and it would be placing the magistrates in this dilemma, that they must almost decide the case before they came to that determination, as it occurs to me; because I can hardly see that a magistrate would come to the conclusion to allow the expenses of a witness for the defendant, unless he thought that that witness was an honest witness, and really impeached the case for the prosecution.

398. Does not it appear to you that if the judge alone is to certify as to the expense of the prisoner's witnesses, inasmuch as he would very often not certify, supposing a law passed to that effect, the prisoner would not by any possibility be enabled to get his witnesses forward, because they would not be certain of payment?—Perhaps it would have that operation; but on the other hand we must recollect that it might turn out that the prisoner was guilty, and that there was no reason for calling those witnesses. Even though the magistrates might think that those witnesses should be allowed, it might turn out on subsequent investigation that those witnesses had imposed upon the magistrates, and had told a false story. Therefore the case must be looked at on both sides, I think.

399. *Chairman.*] Taking the balance of evil, you think it is on the side you mention?—I think so.

400. Mr. *Miles.*] In any alteration of the law on a question of this importance, it will be necessary, of course, first, to take the greatest care that no imposition is practiced, and next, to see that the defence of the prisoner is as complete as possible, so far as evidence is concerned?—So far as evidence goes, no doubt.

401. And you think that what you have now submitted to the Committee would be sufficient to enforce that?—My own impression is, that there would be a great difficulty as to the question in whose power to place the summoning the witnesses, or the preparing any defence for the prisoner beforehand. I do not think that there would be so much difficulty with the court after it had heard the case. In the State of New York they have this process. Every one is entitled to send for counsel or attorney, and to have counsel or attorney in the whole proceedings. Then they are entitled, without any expense whatever, to have all their witnesses subpœnaed. That is the course in America. The witnesses are bound to attend, and they are not only subject to attachment, but subject to a civil suit for so many dollars if they do not attend to give evidence for the prisoner.

402. *Chairman.*] This is what the Lord Advocate said, in answer to a question put to him. He was asked whether the expenses of witnesses for prisoners were allowed in Scotland. He said, "No; there is no allowance, properly speaking, for witnesses of prisoners; it depends very much upon the particular case whether assistance is given or not. I have it in my power either to direct the procurator-fiscal to include particular witnesses in the Crown list," (which is the French system) "or, if a representation is made of a very important witness, or a very poor person, we make an arrangement with those acting for the prisoner, that in the event of its appearing to be a reasonable case after trial an allowance shall be made." That is the Scotch system. Does that modify in any way the opinion which you have just given?—I think I would rather leave it to the discretion of the court, not being guided simply by the evidence on the trial, but making inquiries afterwards, and judging in the best way whether or not there was reason to believe that the prisoner was an innocent man. Some cases would require no investigation, where a clear *alibi* was established. There are other cases where we know that there may be an acquittal, and the case is doubtful, but yet he may turn out afterwards to be innocent.

403. *Mutatis mutandis* you would apply the system now adopted in prosecutions by the Mint to all England. First, there would be the district agent; then you would have the case submitted to counsel; and, according to that counsel's opinion, the prosecution should be carried on at the public expense or not?—Yes.

404. And if the person injured chose to take his chance, he might, in spite of that, go on?—He might go to the court, and get leave from the court to proceed.

405. You would not allow him to do so of his own option?—No.

406. Mr. *Attorney-General.*] Would you not, in an ordinary criminal case?—Not in an ordinary criminal case, where the Crown counsel and the district officer stopped the prosecution.

407. Supposing the magistrates have committed, the depositions are transmitted

C. S. Greaves, Esq., Q. C.

14 June 1855.

mitted to the district officer; he submits the case for the consideration of the counsel whom you have suggested; they think the case should be stopped; the party is desirous to go on: in that case you would not allow him to do so?—You, with deference, put a case of difficulty. I am only saying that the district officer would say, "Here is a case which cannot be supported upon law or facts; that is my opinion." He submits it to the Crown counsel, who is of the same opinion, and it is stopped; but I do not think that either of them would be justified in stopping a case where there was a difficulty. I merely allude to the same course as you pursue in Mint cases, namely, saying, "There is no case here." In those cases I think power might well be given to the district officer and the Crown counsel to say, "We stop this case, unless the court permits it to go on."

408. What court?—The court to which the prisoner was committed or bailed.

409. Mr. *Miles.*] If you allowed that condition, would it not be very hard in the case of a prosecution, where the public prosecutor said that it was a case which ought not to be prosecuted, to allow it to be prosecuted; notwithstanding the witnesses had been ordered to keep at home?—But I apprehend the court never would allow it, unless the court was satisfied there was reason to doubt the decision which had been come to by the public officer; and my view is this, that the public officer and the district officer never would interfere, except it was a perfectly plain case; and we know that it is a very common case, for a counsel to get up and say in court, "My Lord, the facts are so and so; I do not know whether I should leave them to the jury, or whether it will be for your Lordship to say whether, in point of law, the case can be sustained."

410. Mr. *Attorney-General.*] Suppose the prosecution to succeed where the public prosecutor has said that the case should not go on?—That may be; I have known a case of conviction in a Mint and Bank prosecution, where neither the Mint nor the Bank have prosecuted.

411. Would you allow the costs?—Yes; the court there would allow it to go on; but what I mean is this, that after the public officers had said, "In our opinion there is no case," the man should not go on without the leave of the court.

412. You are aware of the Scotch system, in which a private prosecutor can go on?—Yes.

413. *Chairman.*] With consensus?—Yes; and so a private prosecutor can, on my plan.

414. Mr. *Attorney-General.*] And he gets his costs?—Yes, if he succeeds.

415. *Chairman.*] Would not it lead to great abuse (because we must suppose that public prosecutors are liable to the temptations of other men) in political cases, especially if you vested in the public prosecutor the power of saying, "I stop the prosecution"?—It would be only stopped, unless the court allowed it to proceed.

416. The court might be biassed. What harm do you do in leaving a man his constitutional right of going on at his own risk. You have the check of the grand jury?—You do this harm. You see a perfectly plain case where a man should not be prosecuted at all, and yet you either allow the man to remain in gaol or to be bailed till the next assizes or sessions, where there is a clear case of acquittal.

417. I put the case of a man violating his duty?—I think you can scarcely suppose that the district officer in the country and the Crown counsel in London would concur in that.

418. It has happened, and may happen again; you do not think that that is a serious objection?—I think not any more than Mr. Attorney-General having the power to enter a *nolle prosequi*.

419. Mr. *Miles.*] Unless there was the power of stopping a frivolous prosecution in this officer, and of keeping witnesses at home, in all probability the proportion of committals and convictions would stand very much in the same ratio as now, would it not?—It would in those cases.

420. Mr. *Watson.*] As I understand, the question put just now by the Chairman implies a corrupt exercise of his duty by the public prosecutor?—No doubt. We are to recollect also, that Mr. Attorney-General, in cases, generally speaking, of serious importance to the Government, takes them up himself. Therefore, of course, this officer would not be authorised to interfere with his discretion.

421. *Chairman.*] With regard to the question put just now by Mr. Miles, is it

it not quite clear that in the great majority of cases, where the district officer and the Crown prosecutor were of the same opinion, a person would be restrained from carrying on his prosecution, because in those cases he would say, "I will not run the risk of the expense"?—No doubt.

422. Even if he had a strong feeling that he was ill-treated, you would not allow him to go before the grand jury?—Unless with the sanction of the court; which, I conceive, would not be withheld in any reasonable case.

423. Mr. *Miles.*] That would entirely stop it, in the case of poor persons, because they could not bring up their witnesses without their expenses being paid?—Yes; it by no means unfrequently occurs, that the judge, upon reading the depositions, tells the grand jury that upon that evidence there is no offence. If the district officer I suggest is appointed, the probability is, that those cases will be very few, because he will stop them *in limine* very often before the magistrates.

424. *Chairman.*] Do you still think that a single officer in London would be sufficient for the whole business of the country?—I do. I only assume that difficult cases are sent to him, and I think that a single officer in London would perform those duties.

425. In ordinary cases you would refer to the district agent?—Yes.

426. And you are decidedly against having barristers employed on the circuits, in the same way as the Attorney-general would be employed by the Crown for the management of the prosecutions?—I am.

427. Mr. *Attorney-General.*] Will you state your reasons?—In the first place, I do not think they are wanted; my experience teaches me that prosecutions are as well conducted as they would be if there was a public officer appointed to conduct them. On our circuit the rising juniors, the ablest young men on the circuit, have, generally speaking, conducted the prosecutions, especially the most important ones; and I think I may say, that if one was appointed as the Crown counsel on the circuit, it would not be a gentleman who expected to rise to the head of his profession, because, if he is to undertake prosecuting all the prisoners on the circuit, he cannot attend to civil business; therefore, whoever takes it must make up his mind to give up civil business *in toto.*

428. Mr. *Miles.*] Supposing it were adopted, would it not be really shutting the door to all junior counsel?—It would.

429. *Chairman.*] Have you ever studied the history of the French bar?—I have not.

430. Mr. *Watson.*] Have you any other reasons to offer?—I think it would have a very great tendency to stop the study of the criminal law, which I should like to see studied very much more than at present, because I think there is now a stimulus for men to go into the Crown court, and learn criminal law, in order to get into business in the Crown court, and from the Crown court to the civil court.

431. Mr. *Attorney-General.*] Are you aware of the system in Ireland, that counsel are employed for each circuit?—Yes, I am not acquainted with how they conduct prosecutions at all personally, but I see that there were a good many objections raised by Mr. Pitt Taylor to that system in Ireland, in the 8th Report C. L. C., p. 363. I do not know at all how it acts in practice.

432. *Chairman.*] There is this objection to your plan; you would have a double set of costs; you would allow the district agent his salary, and besides that the public would pay in many cases the attorney employed by the prosecutor?—Yes.

433. Then there would be a double expense?—No doubt.

434. Upon the other system, if the district agent *ex officio* conducted the prosecution and methodised and arranged the evidence, you would have one man with a larger salary, but a superior man; you would have only one person to pay instead of two, and those perhaps clashing with each other?—But you must recollect that you must then multiply your district agents immensely, because it is utterly impossible for one man to conduct the business of the county.

435. Supposing in ordinary cases you had the clerk to the petty sessions, and supposing the clerk to the petty sessions, who would be adequate to manage and to digest the ordinary cases, was paid by a fixed salary, and you had one or two district agents over a large area of country to be referred to in cases of difficulty, that would not require a very large number. If every prosecutor has his attorney you multiply the attorneys, and they are paid by the public just the same; the only thing is, that instead of paying a great number of attorneys you have two or

C. S. Greaves, Esq., Q. C.

14 June 1855.

three officers?—My objection to that system goes to the root of it. I deny the right to take the cases from the private prosecutors.

436. Although you contribute by it to a purer administration of justice?—I do not think that.

437. Supposing you did contribute to a better administration of justice by such a system, would you deny the right?—I differ entirely in thinking that you would contribute to a better administration of justice.

438. But supposing you did, you would deny the right?—Yes; I look at both sides of the question; I look at what the effect of it would be, and I look at the present position of things, and what is the feeling in the public mind, which I think a very material thing to be taken into consideration with reference to prosecutions. You have an old practice in operation here which has become part of your system, and every person thinks it a right which he has to prosecute, and I think that right should be continued, unless there are strong reasons to show that by the continuance of that right you prevent a better system being adopted. All our provisions have gone upon that view. First of all we have the restoration of property upon conviction; in the next place, by the common law no man can bring an action for any felonious act done to him till he has prosecuted the person. Therefore you must meet those cases if you establish the Crown's right to interfere, and take the prosecution out of the prosecutor's own hands. Besides which, I am quite sure that, in a great number of important cases, if you put a public officer to prosecute, the private parties would throw cold water upon the case. Take a case of embezzlement of bankers' property; they would not allow a public officer to investigate their affairs; or suppose, for instance, a forged deed is put in on the trial of an action, the attorney who knows the facts should conduct the prosecution.

439. Mr. *Attorney-General.*] Is any inconvenience known to arise in consequence of prosecutions being taken out of private and put into public hands?—I do not know.

440. *Chairman.*] In Scotland, the proportion of acquittals to convictions is much less than in England; do you attribute that to the want of a public prosecutor?—I have pointed out what I think are the defects in our present system, and how I think they may be remedied by the officer I have suggested; but I think that is quite consistent with permitting the prosecutor himself, in proper cases, to have the general conduct of the case.

441. You have mentioned the cases of forged deeds and bankers; would not all that apply to Scotland?—No doubt it would; but in Scotland, with all deference, the public prosecutor and the private prosecutor have both rights.

442. I beg your pardon; the fact of a private prosecutor prosecuting by means of his attorney is unknown in Scotland?—But they have the right.

443. If you look at Lord Rutherford's evidence you will see that the consensus was never applied for, to his knowledge; and, practically speaking, it must be taken that it is always done by the officer of the Crown, namely, the Lord Advocate; and almost the last answer of the Lord Advocate in his evidence was, that the system gave perfect satisfaction to the people. Surely if your objections apply, they would apply to the Scotch, who are not particularly fond of letting people know what they are about?—With all deference, I adhere to the plan I have suggested.

Robert Marshall Straight, Esq., called in; and Examined.

R. M. Straight, Esq.

444. *Chairman.*] WHAT are your functions?—I am Deputy Clerk of Assize on the Home Circuit, I am one of the Clerks of Arraigns of the Central Criminal Court, and I also practise as a Crown Draftsman under the Bar.

445. How long have you been employed in those capacities?—I have been at the Old Bailey ever since the year 1832, and on the Circuit since 1838; I have been engaged in all the departments of the office; I have been clerk of indictments and clerk of arraigns; I have sat with the grand jury, and I have taxed costs.

446. How long has that period extended?—Twenty-three years.

447. Then your experience in criminal matters and the working of our criminal system is very considerable?—Yes; I have been present at a vast number of trials.

448. In your opinion, do any evils arise in the present system from the want of some responsible person to undertake the duties of criminal prosecutions?—I think

I think there are evils, but I do not think they are so great as is generally supposed.

449. Will you state what those evils are, and why you do not think that they are so great?—Will you allow me to define the stages into which I would divide a prosecution: the first stage I would designate as that from arrest until examination before the magistrate; the second I would describe as commencing with the examination before the magistrate, and ending at commitment; the third, commencing at commitment and ending at presentment; the fourth, presentment; the fifth, trial; and there are two other stages which do not very often occur, viz., those upon removal by certiorari, and on proceedings in error. I think it must be admitted, that in that stage which I have described as commencing at commitment and ending at presentment, some person, you may call him what you please, but who ought to be a responsible person to have charge of the prosecution, is required.

450. You think that evils arise from the want of such a person?—I think so, in a few instances.

451. From the time of committal to the time of presentment?—Yes; I think some person should have charge of the prosecution, and I think evils arise from people taking charge of prosecutions who ought not to have it. With reference to that, I would mention a case within my own knowledge: a man was indicted at the Central Criminal Court; it was for murder; the counsel opened a case of acquittal; he said that he would not go on. I believe he was perfectly right. I do not think that a conviction could have been expected; but afterwards, upon inquiries as to who was the real person instructing the counsel and employing the solicitor, it turned out that it was the wife of the accused; he was charged with the murder of his child. That, of course, could not be right.

452. That is a case within your own knowledge?—Yes; and I have heard it suggested to-day that attorneys collude with police constables to get prosecutions; and they do get those prosecutions. I do not mean to say that they are not properly carried on in the majority of cases, but I do not think police constables are the persons who ought to have charge of them.

453. Your experience is simply confined to London and the home circuit?—Yes.

454. You do not know anything about Stafford?—No; I once went the Oxford circuit, but it is a long time ago.

455. Then, in your opinion, the deficiency to be supplied is in that state of our criminal jurisprudence which makes no person responsible for the management of a prosecution from the time of the committal to the time of the presentment?—That is so.

456. Have you any remedy to suggest for that evil?—Yes, I quite concur in the recommendations which I have heard, that some district officer should be responsible for the prosecution; but that may be either a very expensive affair, or it may be made an economical one. I can imagine that if the clerks to the magistrates were paid by salary in lieu of fees, and were permitted to prosecute these cases, they would be most efficiently prosecuted. On the other hand, I am aware that there is a feeling that the magistrates' clerks ought not to be entrusted with these prosecutions; if they are to be, the system might be economical; if they are not, I should imagine it would be extremely expensive.

457. With regard to the magistrates' clerks being entrusted with these prosecutions, supposing there was a district officer paid by a salary, would there be any objection to its being the duty of the magistrates' clerks, they being paid by salary, that is to say, the clerks of petty sessions, to send the depositions to the district officer in cases of difficulty, and in cases of no difficulty to conduct the prosecution?—No, I do not think there would be. I do not exactly understand what you mean by the words "district officer." I think we are using that expression in different senses.

458. The person charged with the duty of collecting and methodising the evidence in all criminal cases where his assistance is required, over a certain area, as the person to whom the magistrates' clerks would refer; does that system appear to you objectionable?—No, I do not think it would be objectionable; it does not occur to me that it would be so.

459. Mr. *W. Ewart.*] The magistrates' clerks would have discretion in certain cases to apply to the district officer?—Yes, though I should have thought it more convenient to have an officer for each petty sessional division.

R. M. Straight, Esq.

14 June 1855.

460. *Chairman.*] Do you think you would get a man of sufficient capacity; in one case, you would pay a certain salary to a person for superintending the whole, whereas you would pay the clerks of petty sessions a given sum, altogether ranging, I suppose, from about 100*l.* to 150*l.* a year in place of fees?—I object to the payment of fees to magistrates' clerks upon committals altogether.

461. That you admit to be an improvement?—Yes.

462. Taking the average of what the fees are, and paying them a certain stipend, leaving that allowance entirely in the hands of the justices of the petty sessions?—Yes.

463. Do you object to have a district agent appointed by the Crown, *dum bene se gesserint*, acting with the clerks of petty sessions, but a superior person, to whom they might refer in cases of great difficulty (murder, and so on) for assistance in managing the prosecutions?—I see no objection to it; but I think it would not meet some evils which in my opinion exist. Having sat with the grand jury in London for some time, I think I have the means of forming a pretty accurate opinion as to the number of unfounded prosecutions which are made; I am of opinion that the number of prosecutions which are instituted without probable cause are not very numerous; I think that a great number of prosecutions are commenced where there is a reasonable and a probable ground, and the party accused is really guilty, but they are not proceeded with, because the prosecution is founded in order to enforce some civil claim. That, I think, is a great scandal upon the administration of justice. In case a prosecution is commenced, it should be the duty of some proper officer to see that it is effectively carried on. Therefore what I would suggest would be this: that where a prosecution is commenced before a magistrate (which I hear is very frequent in London) evidently merely for the purpose of enforcing a civil claim, the magistrate should have the power of sending for the district officer, and saying, "Such a charge has been made, which I think should be proceeded with; it is very likely that it is instituted for the purpose of a compromise, I will therefore entrust it to you to see that it is properly dealt with."

464. Mr. *Attorney-General.*] That would be provided for, supposing all depositions before magistrates were sent to the district officer?—No; I understand that persons are summoned before magistrates, and that they probably never appear to the summons; the matter is compromised before it comes on to be heard.

465. *Chairman.*] You are aware of the system by which Mint prosecutions are carried on?—Yes.

466. In your opinion, does that system prevent a great number of frivolous prosecutions?—Yes; and I have also heard recently that in some instances, where the proper authorities have refused to give their assent to those prosecutions, the parties nevertheless have been convicted, so that it may prevent proper ones.

467. I am supposing that they act upon proper authority. In your opinion, does the system cause prosecutions which would otherwise fail?—Almost all the cases prosecuted result in a conviction.

468. Is not that the strongest test you can have of the propriety of the prosecutions, and that they are properly instituted?—There is no doubt that they are all properly instituted; but there may be others which ought to be instituted which are not.

469. In your opinion, does that system prevent frivolous prosecutions?—Yes.

470. And from your experience, are there many frivolous prosecutions carried on for want of a public prosecutor, and is much expense incurred?—No; I do not think there are many frivolous prosecutions carried on for want of a public prosecutor.

471. You do not think that much expense is incurred by the public in the prosecutions being set on foot without sufficient ground?—No, I do not think that is so; I think that here and there prosecutions may fail for want of the evidence being properly got up after commitment.

472. Mr. *Attorney-General.*] Perhaps that is the great evil?—That is what I consider the great mischief. And I also think it a great scandal upon the administration of justice that persons should have an opportunity of making a criminal charge without the slightest intention of going on with it, but only for the purpose of settling some civil right, and of abandoning it at their pleasure, though well founded.

473. You

473. You would not go the length of saying, that because a man makes a frivolous charge for that purpose, it should be dragged by a prosecution through all its stages, when it is certain to end in the person charged being acquitted?—I am assuming a case where it is not a frivolous charge, but is true.

474. Might not somebody have a discretion upon that?—I would suggest that the magistrate should be at liberty to require the public prosecutor or the district officer to conduct or watch over such a charge.

475. You are assuming a public prosecutor?—Yes; I say that that might be the function of this public prosecutor; you may call him a district officer, or anything else, to prevent these adjustments being made.

476. Then your opinion is, that the appointment of a public prosecutor, with complete exercise over criminal cases, would have a tendency to prevent frivolous cases from being brought forward for the purpose of enforcing civil rights, or well-founded cases from being converted into an engine for enforcing civil rights and then being compromised?—Yes.

477. *Chairman.*] Is it not within your knowledge that, in many cases of great importance to the public, the attorney for the prosecution is obliged to advance considerable sums for the expense of the prosecution?—I do not think he does; I do not think he pays his counsel's fees until they are allowed him on taxation.

478. I am not talking of counsel's fees, but of the expense of finding out the evidence and tracing the crime. The case, for instance, referred to by Mr. Greaves, in the evidence before the Criminal Law Commission, where an attorney was 40 *l.* out of pocket in the case of a conviction for murder; do you know of such cases as that?—Here and there an attorney may be out of pocket.

479. If the attorney is out of pocket, is he not obliged to advance the money?—Not necessarily; he may, perhaps, not be allowed full costs. Here and there he may be out of pocket, from advancing money for witnesses, and getting up the case. I do not think that such cases are of frequent occurrence, and I do not think it probable that the attorney in the result would be out of pocket from that cause.

480. I am talking of the time before the costs are allowed; is he not in many cases obliged to advance the money before the costs are allowed?—I should not say in many cases.

481. Have you ever known cases in which he has been obliged to do it?—I have doubtless known cases.

482. Do you consider it an evil in the administration of justice that it should depend upon whether the attorney advances a certain sum of money; in cases of murder, for instance, as in the case which Mr. Greaves referred to in detecting the criminal?—What do you mean by detecting the criminal?

483. Finding the evidence?—After he is committed?

484. Yes?—I do not think the attorney should be put to that expense, or rather that the success of a prosecution should be made dependent on his willingness or ability to do so.

485. If that happens, do you think it an evil?—Certainly.

486. Have you any doubt that it does happen?—I think it happens in some cases, but not in many.

487. Mr. *Miles.*] Would not an attorney do that entirely with his eyes open; because, first of all, there is a table of fees to be given by magistrates; it is thoroughly understood, both before committal and after committal, what are the charges which are allowed upon each case, and the judge has then the power, if any extraordinary exertions have been used, of ordering a sum of money?—Yes, he has; that is, in certain cases. There are costs, which we call costs of apprehension, which are distinct from costs of prosecution; and in the allowance of the costs of prosecution I should include such charges as a solicitor would reasonably be entitled to make for getting up fresh evidence.

488. Then your opinion is, from your long practice, that whatever cases may occasionally occur of attorneys being out of pocket by getting up prosecutions, they are rather exceptions than the general rule?—I think they are exceptional cases.

489. Mr. *Attorney-General.*] Is it borne out by your experience that the effect of the present system is to compel a person necessarily to resort to an attorney for the conduct of any prosecution?—No; there are cases of the contrary at the Old Bailey. I left this morning, and there might have been 10 cases in the list; probably in eight cases out of those 10 there was no solicitor employed at all, and we ourselves perform those functions which ought to belong to a public prosecutor;

R. M. Straight, Esq.

14 June 1855.

secutor; we have the depositions copied and delivered to counsel, and there is no attorney at all. I think this an evil.

490. Who gets up the case and collects the witnesses; who brings them to you with a view to the indictment?—We draw the indictment from the depositions; in most cases we do not see the witnesses.

491. Who collects the witnesses?—It is done by the policemen, in London, generally.

492. In fact, are there a great majority of prosecutions conducted and brought to the court by the policemen?—Certainly.

493. Do you think that that is a desirable state of things?—No; I think there should be some other person who should have the charge of prosecutions between commitment and presentment.

494. Does it appear to you also desirable in cases of an ordinary kind that there should be somebody to see that the case is complete, that all the evidence which is necessary shall be ready before it comes to the court?—Yes; I think so. I think that in some cases prosecutions fail for want of some one to advise upon the evidence, and to examine the witnesses, and to see that all the proper evidence is forthcoming upon the trial; but I do not think they are very numerous.

495. In those cases you would think that the establishment of a public officer, a public prosecutor, or a district agent, or whatever he might be called, would be a desirable thing?—Yes.

496. In the residue of cases, in which you do not think the intervention of such an officer necessary, do you think it would be in any degree prejudicial; would it do any harm; supposing it was the duty of the magistrate's clerks to send all the depositions, before or upon final commitment, to such an officer, with a view for him to select those cases in which he thought that his more active interference was desirable in the class of cases to which you have referred, do you think, with regard to the residue of cases, any harm could arise from the depositions being sent to him?—That is, taking the matter out of the hands of private parties.

497. Yes?—I think not. There are some few cases where I think a public prosecutor ought not to interfere.

498. What class of cases are you referring to?—I refer particularly to political cases, and to cases in which the Government might be interested. I will give an instance of what I mean. The other day, the publisher of a periodical paper, not being a newspaper, complained that, as the law then stood, he had not the right of sending his periodical through the post without getting it stamped as a newspaper. To obtain the postal privilege, it was necessary that he should get it stamped as a newspaper; but in order to get it stamped, it would have been necessary for him to have made a declaration to the effect that it was a newspaper, when in point of fact it was not. There were various other persons, the proprietors of periodicals, who did not scruple to make that declaration, and therefore they got this privilege. The proprietor to whom I refer objected to make the declaration, and he said to the Commissioners of Inland Revenue, "You are, with your eyes open, granting persons a privilege upon their making a false declaration; if you will not allow me the same privilege, without making that declaration, I will indict all the parties for making a false declaration, which I can do." Now I think, in such a case, the Government ought not to interfere. The object of the prosecutor being to test the legality of the acts of the Government, he ought to be at liberty to raise the question by an indictment, if there is no other course open to him.

499. That might be met by giving the private prosecutor a power to prosecute when the public prosecutor declined to do so?—That is what I propose, that the private prosecutor should have a right to prosecute.

500. *Chairman.*] Then you differ so far from Mr. Greaves?—Yes; but I should not allow him his costs, as a matter of course, if he did not choose to avail himself of the public prosecutor. If there was a public officer appointed to undertake all these cases, and he did not choose to avail himself of that officer, he should not be entitled to the costs of the prosecution, unless the Court made a special order for them.

501. Then you do not agree with Mr. Greaves, who would make the consent of a Court in such a case necessary?—No, I think the prosecutor ought to have the right.

502. The system that you mention of political cases would be precisely the reverse

reverse of that which now exists, because it is in political cases that the public prosecutor interferes; for instance, my learned friend, the Attorney-general, would undoubtedly interfere in a political case?—Yes: but there may be a political case in which a private individual may be interested, as against the Crown. Suppose a conflict between the troops and the people, and it is alleged that the Government or those who represent the Government have given orders which were unjustifiable and illegal, I think that the injured person ought to have a right to arraign the Government without the permission of the public prosecutor, by means of a grand jury. The grand jury is a very great constitutional privilege. The Crown can put no one upon his trial for felony or treason without the consent of the grand jury, who represent the people; on the other hand, the people by means of the grand jury, that is to say, if they have the fiat of the grand jury who represent them, can arraign any officer of the Crown they please. In political cases affecting the community a grand jury is indispensable, and no restriction should be put upon its motion.

503. Mr. *Miles.*] I must refer to exactly the period which you have been mentioning, namely, between committal and presentment; I will first ask you whether previously to that period you have any recommendations to offer?—Merely that one to which I referred to just now, namely, where it may be made to appear to a magistrate upon the application for a summons that an offence has been actually committed, and he has reason to think that it is done for the purpose of a compromise, he should be at liberty to call in the assistance of the public prosecutor, or the district officer, or whoever it might be, and direct him to see that that charge is proceeded with; it appearing to me to be a great scandal that if a well-founded charge is once made to a public functionary, any private individual should have the power of stopping that charge.

504. Again referring to the period as to which you have given evidence, you would recommend, as I understand you, that the gentleman who acts either as public prosecutor or as district officer, should conduct all the prosecutions?—If there be an officer of that kind appointed, I would allow him to conduct all prosecutions where the prosecutor made no valid objection.

505. Still leaving it open to a private individual to prosecute either by his own counsel or by the public prosecutor?—Yes; and in order to prevent improper compromise, if the private prosecutor chose to conduct the proceedings himself, he should enter into a recognizance in a large amount to prosecute the case with effect, and he should not be entitled to the discharge of his recognizance, unless the prosecution were conducted to the satisfaction of the public prosecutor.

506. *Chairman.*] Have you any doubt that there is a great deal of corruption with policemen in the management of prosecutions?—I always look with great suspicion upon policemen with reference to costs, for I fancy some of them get a per-centage off them if they can; that is to say, when we make an allowance to witnesses, I think it possible that the policeman may think himself entitled to take something off for his own share.

507. Independently of that, is it possible that the policemen can be a proper body, taking generally the class to which they belong, and the temptations to which they are exposed, to be entrusted with the management of bringing to trial important cases?—I have the greatest objection to policemen being the prosecutors.

508. And yet you have told my learned friend, that as matters now stand a great number of important cases are conducted and prosecuted by policemen?—That is at the Old Bailey; and in some counties on the Home Circuit I believe the police are very frequently entrusted with the prosecution.

509. You do not consider them a proper body in whom such a trust should be deposited?—No.

510. Do not you think that they are exposed in many cases to pecuniary temptation, taking a vast number of them?—I never knew any fact which would justify me in coming to that conclusion; I think they take a per-centage off the allowance to witnesses.

511. Is not a person who is capable of such conduct as that liable to pecuniary temptation; you do not consider that honest?—Certainly not; I consider it excessively dishonest.

512. Then you must suppose that such people are exposed to pecuniary temptation?—Yes; I say I think the police are totally unfit for the office of public prosecutors.

R. M. Straight, Esq.

14 June 1855.

513. Which they now exercise in a great number of instances?—Yes, I think them too eager to convict.

514. Mr. *Miles.*] Though they may, in certain cases, become public prosecutors, there is no necessity, because there is a vice in that system, entirely to alter the law, with the view of eradicating that vice?—I think that the police, in some stages of a prosecution, are extremely useful, and that no other persons could be entrusted with them, namely, in the preliminary stage, commencing at arrest and ending at commitment.

515. You do object to their getting up a case for trial?—Yes, I do not think it is right.

516. Of course that only happens in those parts of the country where there are police?—Yes.

517. What system would you substitute in those parts?—We are now confining ourselves to the second stage. If I were called upon to devise a system (and I have not considered this question of a public prosecutor very much), I should be disposed to make the magistrates' clerks these district officers, who might be called public prosecutors, paying them a salary; and I would let them be responsible to some one officer in the county, who should be called the county public prosecutor.

518. Agreeing there very much with the evidence of the last witness?—In some respects I agree quite with Mr. Greaves.

519. Mr. Greaves likewise stated that there should be a public officer appointed in London, to whom all these district officers should make reference; do you think that would be an improvement?—I do not think one would be enough.

520. But still you think it necessary that there should be a supreme power, to whom application should be made by the district officers?—Yes, and I should like to see them responsible to him; that is to say, he should be authorised to investigate any alleged misconduct of these district officers. There were two branches of this subject to which I alluded, to which, I think, I ought to call the attention of this Committee. With reference to *certiorari*, when an indictment gets into the Court of Queen's Bench, nobody has charge of it at all, for by the practice of that court, the existing recognizances of the prosecutor and witnesses are discharged; so that it is the easiest thing possible to compromise prosecutions when they get there; and I know it is commonly supposed that indictments are removed into the Court of Queen's Bench for the mere purpose of compromise. If after an indictment is removed into the Court of Queen's Bench (that is, by the defendant), the prosecutor prosecutes the law honestly and with effect; should the defendant not be convicted, the prosecutor is not entitled to his costs. If the proceedings get into a court of error, there, I think, the compromises are still more facilitated.

521. Your last two answers look to some alterations in the higher courts, do they not?—It seems to me that in those courts the compromises are much more easy than in the inferior courts.

522. How would you meet the difficulty?—Either the Queen's coroner, or some one to be deputed by him, should have the watching of all prosecutions which go into the Court of Queen's Bench; and a proper officer, to be appointed by the Court of Error, should watch over proceedings when removed into that court. I think the Attorney-general knows that when the proceedings get into either of those courts, compromises are extremely easy, and that the evil requires a remedy.

523. Then would you give this officer so appointed, the power of conducting to issue each case?—What should be his duty would be this, to see that the case was fairly brought to issue. As to the details of his duty, I am not at all prepared to say what they should be. I merely point out the general duty.

524. *Chairman.*] You have not turned your attention with regard to the details of the plan, I understand?—Not at all, but I am quite certain that evil does in a few cases result from the want of some public functionary to take charge of the prosecution previous to trial.

525. Mr. *Attorney-General.*] And those generally are a more serious class of cases?—They are.

Martis, 19° *die Junii*, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. Philipps.
Mr. William Ewart.	Lord Stanley.
Mr. Walpole.	Mr. Miles.

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

Thomas Flower Ellis, Esq., called in; and further Examined.

T. F. Ellis, Esq.

19 June 1855.

526. *Chairman.*] I UNDERSTAND that you wish to add something to your evidence?—It is rather to correct something that I said. In one of the earliest questions which were put to me by the Committee on my first examination, I was asked whether the change in the system at Leeds had been instituted in consequence of any great faults found to have existed before. My answer was, that, although I myself had seen something like carelessness, I did not believe that the change had been introduced so much to correct faults which had struck anybody, as in consequence of hearing that the system had worked so very well at Liverpool. I find now that I very much understated the case; I have since seen a gentleman who knows a great deal more about it than I did, and who can inform the Committee of the circumstances under which the change took place. There were one or more very great faults, which did lead to the change. It did not come before me as recorder; and I spoke only from my own knowledge. The Committee desired me to procure some returns. I wrote to Mr. Hamilton Richardson, the deputy clerk of the peace at Leeds, for them; he is in attendance upon the Committee now, and has brought them; and they will require some explanation, which he will give. It will be remembered that my examination was confined exclusively to the part which intervenes in the prosecution between the committal by a magistrate and the trial; it had no reference to the getting up of the case before the magistrate, or to conducting the case by counsel.

Henry E. Davies, Esq., called in; and Examined.

H. E. Davies, Esq.

527. *Chairman.*] YOU are a Barrister, are you not?—A Counsellor.

528. In America?—Yes.

529. In what part of America?—In the city of New York; I am counsellor in all the courts of the state of New York, and in the courts of the United States.

530. What legal offices have you filled?—I have been a member of the corporation of the city of New York, assistant alderman, and alderman and judge of the local courts, by virtue of the office of alderman; I have for nearly four years been counsellor to the corporation of the city of New York.

531. And you have had, I have no doubt, a very extensive experience?—My practice has been very large in all the courts of the state, and in the courts of the United States to some extent.

532. May I take the liberty of asking how many years you have followed the profession?—Over 25.

533. Will you be good enough to explain to the Committee the system which prevails at New York with regard to the prosecution of criminal offenders?—In the state of New York there is a local officer in each county of the state, the state being divided now into 56 counties, who is called the district attorney.

534. Mr. *Philipps.*] What is the average population of each county?—It varies greatly. The city and county of New York has the largest: the population of that is now estimated at 750,000.

535. What is the smallest?—Perhaps from 15,000 to 20,000 in the more sparsely settled districts of the state.

536. *Chairman.*] What are the duties of the district attorney?—His duties are, to conduct all criminal prosecutions arising within the county of which he is the local officer.

537. Does he conduct those as attorney, or as counsellor?—Both.

 538. The

H. E. Davies, Esq.

19 June 1855.

538. The same person fills both offices?—Yes.

539. Will you be good enough to describe what takes place; is it his duty to interfere before the person is taken before the magistrates; does the policeman go to him?—No; the process is this: the committing magistrate, who in the city is called a police justice, and in the counties in the country a justice of the peace, receives complaints and investigates them, and reduces the depositions of the witnesses to writing, and then he makes out the commitment.

540. Mr. *W. Ewart.*] Who brings the complaint before the sitting magistrate?—Any person may.

541. Is there any public officer authorised to do so?—It is the duty of all officers; police officers, magistrates, constables, or any other public officer who is cognizant of it.

542. No particular person is specially appointed for the purpose?—No; it is regarded as the duty of all officers to aid in the detection and punishment of crime, and I may say of all good citizens.

543. *Chairman.*] Then, the person being taken before the magistrate, the duty of the district attorney commences?—Yes; the committing magistrate often advises with the district attorney as to whether a case is made out, and the district attorney gives that advice as part of his duty.

544. He attends during the investigation?—In very important cases the district attorney often attends the examinations before the committing magistrate, not in ordinary cases; he often attends before the coroner's inquest in cases where life has been taken.

545. In ordinary cases, are the depositions sent to the district attorney?—They are transmitted to the grand jury by the committing magistrate, for the purpose of finding a bill in cases of that character.

546. After the grand jury have found a bill, what takes place?—The district attorney is regarded as the legal adviser of the grand jury.

547. Does he attend the grand jury?—He does. There is always an express order of the court that the district attorney is to attend the grand jury, and to remain with them, and they are directed to consult him upon all questions of law which may arise before them.

548. Mr. *Miles.*] Does he take up the bills of his own particular district with him to the grand jury?—He prepares them all, after the grand jury have determined that a case is presented to warrant a bill.

549. To whom do the magistrates, from their particular districts, send their bills; is there an officer who collects them generally?—It is the duty of all magistrates to return all recognizances to the next court. Proclamation is made according to the same form which has prevailed in this country, requiring all magistrates to return their recognizances, and all persons who are under recognizance to attend at the next court succeeding the time of commitment, or of entering into the recognizance, or that their recognizances will be estreated.

550. I understand you to say that they are returned to the grand jury?—Yes; they are returned formally to the court, and by them sent to the grand jury; they, in fact, go to the grand jury for their action.

551. Mr. *W. Ewart.*] The first obligatory act of the district attorney is before the grand jury?—Yes.

552. He is not obliged to act till then, as I understand?—I should say that I think it is regarded as his duty to advise the committing magistrate.

553. But he must be always with the grand jury?—He always is with them.

554. *Chairman.*] What is the salary of these officers?—It varies greatly.

555. What would be the salary of the New York attorney?—The salary of the district attorney of New York is now 5,000 dollars of our money, 1,000*l.* of yours, per annum; he is allowed clerks and an office, stationery, and disbursements which he makes.

556. Then he is at the head of a considerable staff?—Yes.

557. Do his clerks attend for him in ordinary cases before the magistrates?—There is an assistant district attorney in the city of New York, who has a salary half that of the district attorney; but there is in New York the largest amount of criminal business of any county in the state.

558. Have other counties assistants as well as New York?—I believe there are none except in the state of New York.

559. Mr. *W. Ewart.*] Out of the 56 counties, New York is the only county which

which has an assistant district attorney?—The only one; it becomes necessary by reason of the large amount of business, and several courts sitting at the same time; the same officer can only be in one court at a time.

560. *Chairman.*] Does he transact the business in the other courts by his deputy?—Yes; for instance, when the district attorney is trying a case in the oyer and terminer court, the deputy district attorney will be trying a case in the sessions.

561. Then the business in a populous district, like New York, would be too much for any one person?—It is quite impossible; physically so. After the grand jury have determined that the case presented in their judgment is sufficient to find a bill, it being necessary that 12 of the grand jury should concur to find a bill, the district attorney draws up the bill of indictment, which we regard as requiring high professional skill, because if the indictment is defective either the prisoner will be acquitted or the indictment will be quashed. Then the indictment is endorsed by the foreman of the grand jury as a true bill, and the grand jury attend in a body and present it to the court. Then a bench warrant is issued for the arrest of the prisoner, and he is brought in, and if it is a bailable offence, he is bailed; if it is non-bailable, he is committed to custody until trial. Then the district attorney issues subpœnas for the witnesses; it is his business to prove the case, to see that the witnesses are necessary to sustain the indictment; and he is also bound, on the application of the defendant, to issue subpœnas for his witnesses.

562. With regard to the expenses of the prisoner's witnesses, what is the course pursued?—If they sue *in formâ pauperis*, they are paid by the county; that applies only to witnesses, however, who are poor and unable to attend at their own expense; the court makes allowance for their expenses to be paid.

563. Is that the case indiscriminately, whether they are witnesses to fact or whether they are witnesses to speak to the character of the prisoner?—All witnesses who attend.

564. If they are poor people, the expenses are defrayed by the county?—Yes.

565. In the case of a witness who had come manifestly for the purpose of perjuring himself, for proving an *alibi*, for instance, that was fraudulent, would there be any difference as to the allowance of expenses, supposing the judge was of opinion that the witness was not the witness of truth?—The only occasion in my recollection on which the expenses of witnesses have been paid, has been where the witnesses themselves have been so poor as to be unable to pay their own expenses. In those cases, the statute authorises the court to make an order that the expenses of attending, either on the part of the prosecution or on the part of the defendant, shall be a county charge, and paid out of the county treasury.

566. Supposing the witnesses called by the prisoner are called to make a false statement, is the judge in that case justified in not allowing their expenses?—I think there is a discretion vested in the court, by which, in a manifest case of fraud, they would not be allowed.

567. Have you ever known that discretion exercised?—No case now occurs to me.

568. In your opinion, that system of allowing the prisoner to call witnesses, to be paid for at the public expense, does not lead to fraud or to forged defences?—I have no recollection of ever hearing it suggested as having led to anything of that kind.

569. Not to false *alibis*, for instance?—No, I do not remember a case of the kind.

570. Is the office of district attorney one which would be taken by a gentleman of eminence in the profession of the bar?—It is regarded as a very high professional appointment, and is esteemed a very honourable position.

571. Is it compatible with a seat in the Legislature?—It might be in some of the counties in the interior of the state, but it would not be compatible in the city and county of New York, where the district attorney is daily employed for the whole year.

572. Mr. *W. Ewart.*] Could he be a member of Congress?—The same difficulty would present itself; there is no legal incompatibility, but it would be quite impossible for the district attorney to discharge the duties of the office and to be at Washington.

573. *Chairman.*] They are of such an engrossing nature that they require his

H. E. Davies, Esq.

19 June 1855.

exclusive attention?—It is so in the county and city of New York; and I suppose it is the same in the county in which the city of Albany is located, in the county in which the city of Troy is located, in the county in which the city of Buffalo is located, and some others where large cities are located, where there is a much larger amount of criminal business than in agricultural counties.

574. If the case fails for want of a witness who might have been summoned, is the district attorney held responsible?—He is held responsible in not having discharged his duty; he has the eyes of the court and of the profession and of the public upon him.

575. Have you ever known a case in which a district attorney has been removed for incompetence or for inefficiency?—I do not now recollect any.

576. How long has the system existed with you?—The present system of having a local officer in each county has existed since the year 1821. Previously to that the state was divided into four great districts, and a district attorney was appointed for each district; that obtained from the organization of the Government in 1777.

577. Mr. *W. Ewart.*] Have you a statute of the United States which regulates the appointment of those officers?—The officer is now elected by the people in each county by a constitutional provision of the state; the statute regulates the manner of his election; the details are regulated by statute, but it is a constitutional provision that he should be elected.

578. Is that under the original constitution of the United States?—I am speaking now of the state of New York; the constitution of the United States is entirely different. The district attorneys have been elected since the year 1846; they were appointed from the year 1821 to 1846 by the county courts of each county.

579. Is there any Act of the state of New York which will give us the legal information on this subject generally?—Yes; the duties of the district attorney are prescribed by statute; they will be found in the revised statutes of the state of New York.

580. Could you obtain a copy of the statute here?—I suppose there are copies.

581. *Chairman.*] How long has the system of a public prosecutor, some person responsible for the conduct of the prosecutions of offenders, existed in New York?—Always, I believe, in the state of New York, and I believe in most of the other states of the Union. We have a law officer called the attorney-general of the state, who is regarded, if I may use the expression, as the head of that department. It is his duty to assist the district attorneys of these various counties in very important cases, to act as associate counsel.

582. He is the superior of the district attorneys?—He does not interfere with the detail of the office of district attorney.

583. But if there is a case of great importance, treason, or anything of that sort, he assists?—It is then the duty of the attorney-general of the state to go down and assist the district attorney in the trial.

584. Otherwise, his functions are distinct entirely from those of the district attorney?—Yes.

585. Mr. *W. Ewart.*] Is that by the constitution of New York?—I think we derive it from the practice supposed to have obtained in England.

586. You are not sure whether it is taken from the English system or from the Dutch?—I am not.

587. Mr. *Philipps.*] Are these situations changed with the changes of the government?—The district attorney holds his appointment for three years; that is his regular term of office, and if he is a good officer he is pretty certain to be re-elected.

588. I think you said that the district attorney consults with the committing magistrate, and also consults with the grand jury?—Yes.

589. Suppose there is a disagreement between them, how does it generally terminate?—It is for the grand jury of course to decide; no man can be put upon his trial until he is presented by the grand jury.

590. The magistrate only takes his advice?—That is all.

591. Mr. *Miles.*] In what shape is your bill or your charge preferred before the grand jury?—The witnesses are all examined before the grand jury, and the testimony given by them is reduced to writing by the clerk of the grand jury.

592. Does it come up in the form of a bill of indictment before the grand jury?—

jury?—After the grand jury have determined that a case has been presented sufficient to warrant an indictment, they direct the district attorney to prepare the bill of indictment.

593. Then it is presented, as I understand, to the grand jury merely upon the depositions taken before the magistrates?—The grand jury themselves personally examine the witnesses; the grand jury never find a bill upon depositions taken by the committing magistrates; they examine the witnesses themselves, and determine as to the credibility to be given to the witnesses from an oral examination.

594. In what written way does the statement of the charge against a prisoner come before the grand jury?—The statement of the charge against a prisoner is never made, excepting in the form of the depositions taken before the committing magistrates, until after the grand jury have determined to find a bill. Then it is the duty of the district attorney to frame the bill; after he has framed the bill, he submits it to the grand jury, and the foreman endorses upon it "a true bill," and signs his name as foreman; and the grand jury in a body go into court and present it.

595. Have you in America regular magistrates' meetings in different districts to take charges?—No.

596. How is the preliminary complaint of injury or crime commenced?—If a police officer sees a crime committed he arrests the party immediately, and takes him before a police magistrate, and makes affidavit that he was present and witnessed such a crime committed; or he finds out who were present; he has them brought before the committing magistrate, and he takes the depositions of the witnesses, and commits the offender, and takes the recognizances of the witnesses, either their own, if they are deemed to be of any responsibility, or if they are non-residents or not responsible, they are committed to be kept till the time of trial.

597. In the case of an individual suffering an injury, or a crime being committed against any individual without the cognizance of a peace officer, will you be kind enough to tell us how the complaint originates?—The individual would go before a committing magistrate and make complaint, or he would wait until the session of the grand jury, who, in the city of New York, sit monthly, and go before them and make his complaint there.

598. Then is the business transacted by magistrates in their own houses?—No, they have public offices located all over the city.

599. Turning your attention to the country districts, for instance, taking one of your 56 districts, in which there may be a population of some 20,000, how many petty courts of magistracy would there exist in that particular county?—Each county is divided into towns, and each town in the country has four justices of the peace; persons who are elected; they are farmers of a little more intelligence and position than ordinary are generally elected justices of the peace. If a crime is committed in their neighbourhood, they hear of it, or the constables of the town hear of it, or the party upon whom the offence has been committed goes before a justice of the peace and makes his complaint, and he issues his warrant of commitment.

600. Necessarily these petty sessions are far distant for each other?—They are hardly called sessions with us.

601. Meetings of magistrates?—No; a magistrate sits by himself; there is no meeting of magistrates except at courts; those are called sessions. The magistrate acts by himself, or, if he deems it important, he calls in some of his neighbouring magistrates.

602. Is it thought necessary to have the district attorney at every such meeting of magistrates?—No.

603. Only when particular cases arise?—Yes.

604. Mr. *W. Ewart.*] Can the magistrate command the district attorney to attend?—I do not know that we have any statute making it imperative for him to attend, but he does when it is deemed important that he should attend and advise.

605. *Chairman.*] In short, no case can be tried without the agency of the district attorney in some shape or other?—No; in cases of very great magnitude, where the crime consists of injury to an individual, or cases of forgery upon banks, the district attorney very often allows to be associated with him the counsel of the private party who has been particularly aggrieved; but that is a

H. E. Davies, Esq.

19 June 1855.

mere matter of courtesy on the part of the district attorney; he can avail himself or not as he pleases of the services of the private party.

606. Lord *Stanley.*] Do I understand you rightly, that the district attorney has nothing to do with the case until after it has gone before the grand jury?—He is not regarded as responsible for it till after he prepares the bill; then it is regarded as specially in his charge.

607. Then it is put into his hands, and he becomes responsible for it?—Yes, he is responsible for the conduct of the case as a private counsel would be in a private case.

608. He acts as a public prosecutor?—Yes.

609. If there is a case which he, on behalf of the public, thinks is not a case to go into court, and which he refuses to have anything to do with, is the private party, who considers himself aggrieved thereby, debarred from prosecuting his own case?—Entirely so.

610. Then it rests with the district attorney to say whether there shall be a prosecution or not?—No; the district attorney can only advise the grand jury; if the grand jury find a bill contrary to his advice, it is his duty to reduce that bill to form, and the party then stands indicted before the court; after he is indicted it is not in the power of the district attorney to discharge the party, except by the entry of a *nolle prosequi*, with the consent of the court.

611. Can he refuse to conduct the prosecution?—No; it is his duty to conduct it.

612. Mr. *Miles.*] In the case just put by Lord Stanley, who conducts the prosecution; does the district attorney, or does a counsel employed by the private party?—The district attorney has the conduct of the case; he carries the case.

613. *Chairman.*] The party injured has a right to call upon the district attorney, and put the case into his hands, after the bill has been found by the grand jury?—The district attorney can exercise his own pleasure whether he will receive any aid *aliundo* his own office or not.

614. Mr. *W. Ewart.*] The person injured cannot continue the prosecution, except through the agency of the district attorney?—No.

615. He may originate it, of course?—He may make a complaint.

616. If I understand you rightly, if I may so say, the power of institution by the constitution is left open to everybody?—Yes.

617. It is not the duty of any specific officer to originate a prosecution?—It is the duty of all officers cognizant of a crime to endeavour to take the necessary steps to have it punished.

618. That is laid down by the statutes?—Yes.

619. Supposing a crime was left undetected or unpursued in a particular district, would the policeman be responsible for the non-prosecution of it?—If a policeman knew of a crime having been committed, and had taken no measures to detect it, it would be just cause for removal, and the appointing power would remove him.

620. The parties themselves, as I understand you, are very often left to institute a prosecution?—Yes, they are at liberty to do so.

621. Are there any cases of collusion between them and the criminals?—There are; but it is, of course, the duty of the public officer to prevent that.

622. Such cases might occur?—They might; but it is made a very serious offence with us to compound a felony, or to compromise it in any way.

623. *Chairman.*] Speaking from your extensive experience, do you think that the necessity for an officer to discharge the duties of your district attorney, is a very cogent one for the benefit of society?—I cannot see how criminal business can be administered safely without it.

624. In your opinion criminal business cannot be safely left to depend upon the prosecution of the party injured alone?—That is not the experience in my country; it is universal to have a public prosecutor, both in the state courts and in the courts of the magistrates.

625. The want of a public prosecutor, in your opinion, would lead constantly to a failure of justice?—It would seem to me so.

626. It would render the certainty of punishment much more precarious?—I should suppose so.

627. Are you at all acquainted with the French system?—I am not; I have not been engaged in criminal business myself.

628. You told my friend Mr. Ewart that you could not tell whether the system

system in New York was founded upon the Dutch jurisprudence, or whether you borrowed it from the English?—No, I never looked into it for the purpose of determining its origin; I only know that it has obtained since the constitution of our Government. *H. E. Davies*, Esq. 19 June 1855.

629. Mr. *Miles.*] Have you any statistical tables of New York, showing the number of persons committed, the number tried, the number acquitted at trial, and the number convicted?—Yes.

630. Have you any of those with you?—No.

631. From general knowledge, can you state the number of convictions upon trial which take place compared with the acquittals?—I cannot: my own professional business has been confined to the civil courts, and has not extended to the criminal. Our chief of police makes a semi-annual report, and all the facts with reference to the city and county of New York are contained in it.

632. Mr. *Philipps.*] You have said that these district attorneys are elected every three years?—Yes.

633. By whom?—By all persons authorised to vote for any of our public officers.

634. Is there often an active canvass?—Yes; it is regarded as a valuable office, and professional men enter the field for it.

635. Mr. *W. Ewart.*] The magistrates are also elected, are they not?—Yes.

636. *Chairman.*] You do not think there was ever a time when an officer corresponding with that of public prosecutor did not exist?—Not in the United States.

The Right Honourable Lord *Campbell*, Lord Chief Justice of England, attending by permission of the House of Lords; Examined.

637. *Chairman.*] HAS your Lordship's attention been devoted to the consideration of the appointment of a public prosecutor?—Yes, very much. I had the honour to be Attorney-general for the Crown in England about seven years, and I paid great attention to the subject during the whole of that period. I have since considered it very attentively, with a view to see whether it was possible to introduce into England the system of a public prosecutor, which I know has been found so very beneficial in Scotland. In Scotland I have had an opportunity from my own observation of seeing that the system there established works most admirably, both in the Court of Justiciary, the Supreme Court at Edinburgh, and at the assizes. I have attended in the Court of Justiciary again and again, and the assizes for four counties are held very near my house in Scotland. I am in the habit, when I return from my duties as Judge in England, of attending the assizes there, and I see with my own eyes how the system works; and I confess that I am of opinion that it works most admirably. Right Hon. Lord *Campbell.*

638. Does your Lordship think that the want of such an officer tends often to the failure of justice in England?—I think that if the system could be introduced into this great country of England in the same manner, it would be desirable that it should be introduced; but there are most formidable objections, which I was unable to surmount, and which I am afraid may be found insurmountable.

639. Your Lordship is aware that those objections have been surmounted in France, for instance?—In France, I suppose, from very early times they had a public prosecutor. The objections which I found so formidable were, first, that it would be a very great expense, because there must be a functionary in every district corresponding with what is called the procurator fiscal in Scotland. He superintends the taking of the original depositions; then he transmits them to the Lord Advocate, and the Lord Advocate and his deputes, to the number of four, examine them, and then they determine what cases are fit for prosecution, and whether the prosecution should be before the sheriff, or whether it should be before the judge of assize. If it is to be before the sheriff, the sheriff, who is sitting all the year round, immediately takes cognizance of these smaller offences; if they are remitted to the assizes, then the depute advocates examine the depositions, and they prepare the cases for trial, and one of them goes round each circuit and conducts the prosecutions. To have a corresponding staff of officers for England such as they have in Scotland, would require a very heavy expense, and

Right Hon. Lord *Campbell.*

19 June 1855.

and that is one objection. Another objection, which I was always afraid of, is as to the patronage; that it would be most alarming to vest such a patronage in the Crown, and I do not know in what other hands it could be safely vested. Of course there is a danger of jobbing with Crown appointments, but there would be much greater danger, I think, if the patronage were vested in the hands of the lord lieutenant, or any local authority. Then another very great obstacle was the interfering in England with the system which has been long established, because in England every person is allowed to put in exercise the criminal law of the country, and he may employ for that purpose any attorney or any counsel that he thinks fit to select. There are a great number of respectable attornies and counsel beginning their career, and who have made progress in their career, who are in possession of that business, and there would be difficulty in disturbing what may be considered, in one sense, a vested interest in them. Then what I should be afraid of would be, an interference with the independence of the Bar; because if this patronage were vested in the Crown, no one could hold a brief in a criminal court except by the favour of the Attorney-general, or any person who had this patronage in his possession. It might impair that upon which the country depends; I mean the independence of the Bar, which is always the boast of the profession to which I have the honour to belong. These objections deterred me, while I was a Member of the House of Commons, and while I represented the Crown in England, from making the proposal; but at the same time, I by no means say that they are such as should deter others from making the attempt, because the public mind may by degrees become ripe for such a change, and these obstacles may be overcome. I think that the prosecutions are better conducted in Scotland than they are in England, because I have observed that the cases are more carefully got up, and there are very few acquittals, although I see no improper convictions. But there is another reason why I should like to see a public prosecutor introduced into England if it were possible, which is, that the Attorney-general is placed, in England, sometimes in a very embarrassing and painful situation. As the law and practice now exist, he is merely a private advocate, and his services may be professionally required by any person who is accused. Then he appears as a private advocate, and sometimes there may be a clashing between his duties as a private advocate and his duties as public prosecutor, because he is, after all, public prosecutor in a certain sense; for it is his duty to superintend the administration, to a certain degree, of the criminal justice of the country. For example, there can be no writ of error brought without his fiat, and he is bound, if there be any reasonable ground for the application, to grant a fiat; he would be guilty of a misdemeanor in his office if he were to refuse it. In the Court of Queen's Bench last term there was an application made for a mandamus to the Attorney-general, to compel him to grant a fiat for a writ of error, but we said that we had no such authority; that the discretion was left with the Attorney-general. If he is guilty of any misconduct he must answer in Parliament; he may be impeached and dismissed from his office, and a person who would more worthily do the duties of it may be appointed in his place. He may be applied to for a fiat upon a prosecution in which he himself has been counsel for the accused, and there is no doubt that he would do his duty in a very disinterested manner, and perhaps refer the party to his colleague the Solicitor-general, to avoid the embarrassment of deciding the case of his client or of a person who has been his client; still it places him in a painful situation, from which I think he ought to be rescued if possible. Then at present there is this great evil from the want of a public prosecutor in England, that the criminal law is often most shamefully perverted to mere private purposes. Indictments for perjury and for conspiracy are, in a great majority of cases, preferred with a view to extort money; the same for keeping gaming-houses and for keeping brothels. There is at present no sufficient control over these prosecutions, and the criminal law is often perverted to very corrupt purposes. A prosecution for conspiracy is instituted with a view to get money, and when a conviction takes place there is a compromise; sentence is pronounced, but it is not carried into effect; that is for the want of a public prosecutor who would superintend that proceeding, and see that the prosecution is not instituted except upon just and legitimate grounds, and that if there is a conviction, and if there is a sentence, the punishment shall be endured by the guilty party; I think with that view a public prosecutor is highly desirable.

Right Hon. Lord *Campbell.*

19 June 1855.

640. Mr. *W. Ewart.*] Has your Lordship ever had occasion to notice the proportion of convictions to commitments in Scotland and in England?—I know that there is a much larger proportion of convictions in Scotland compared to the prosecutions than in England, but I cannot state it exactly.

641. I believe it is a fact?—There is no doubt that it is so.

642. *Chairman.*] Your Lordship has mentioned the expense; will you allow me to call your attention to this point. Every prosecution is paid for; the counsel conducting a prosecution receives his fee upon it. Does your Lordship think that, if instead of a number of different barristers being employed and receiving their fees, those sums were given to a single person, or if a stated salary was given to a single person for doing the duty distributed among all those various barristers, the additional expense would be so very considerable; taking into consideration also the number of prosecutions, of which I am afraid there is too much evidence, which are really instituted for collusive purposes?—I believe that the aggregate expense to put in force the criminal law would not be increased, but then there would, in the first instance, be a large and heavy burden thrown upon the public treasury, because you would be obliged at once to give a salary to your procurator-fiscal, or whatever name you give him, and to all those acting in the capacity of advocates-depute under the Attorney-general or the functionary who prepares these prosecutions; the number would be most alarmingly great; because Scotland, after all, is hardly more populous than the county of Lancaster.

643. Supposing that in two or three, contrary to what would probably be the case, and which is the opinion of several gentlemen of experience who have written to me upon the subject, the country did not save by it; but even supposing the aggregate expense was increased, does not your Lordship think that a purer administration of criminal justice, supposing it should be attained, would well compensate for that?—I think so. I think the objection of expense ought to be surmounted, but I know that if I had brought forward such a proposal in the House of Commons when I was a member of it, and if I had been asked, as I might have been by my friend Mr. Miles, to make a calculation of what the expense would be, I should have been very much afraid to bring out my budget.

644. Lord *Stanley.*] Have you formed any calculation of the number of officers which under such a system would be required?—I have not.

645. It was stated by one witness that one for each county, or in a few of the more populous counties, two would be sufficient for all purposes?—The English counties vary so much in size and population that it could not be done by counties at all; it must be done by districts. In the county of Lancaster, as you know well, there would be a greater number of functionaries required than in the whole of England south of the Thames.

646. *Chairman.*] With regard to the patronage, I admit that that is a considerable difficulty, which has always staggered me?—It is a very formidable one.

647. Does not your Lordship think that if those officers were appointed *dum bene se gesserint*, and excluded from Parliament, that difficulty would be very much diminished?—It is a most formidable obstacle. I do not see how it is to be got over.

648. Has your Lordship considered at all the history of the French bar?—Not particularly.

649. Your Lordship knows that at the very time when the independence of the English bar, in the time of the Stuarts for instance, was at its lowest ebb, the French bar exhibited very remarkable proofs of independence?—The French bar and the French magistracy at all periods of French history have shown great independence.

650. But that was under this very system?—Still I do not know that that compliment could be paid to every procureur-general, because, holding as they do during the pleasure of the existing government or dynasty, I think it is hardly possible that they should not be influenced by selfish motives.

651. Mr. *Philipps.*] Your Lordship said something about prosecutions being improperly instituted; that the sentence was not carried into effect; what stops the sentence being carried into effect?—A compromise between the prosecutor and the party convicted. When the sentence is pronounced, according to our procedure, sometimes the defendant who is convicted is not actually present; then the sentence is pronounced, and a warrant is obtained under the hand of

Right Hon. Lord *Campbell.*

19 June 1855.

the Chief Justice to arrest him, and to send him to prison under the sentence. The prosecutor says, "Pay me 1,000 *l.* and I will not put this in force."

652. Lord *Stanley.*] Can you suggest no means of preventing such compromises, except by the appointment of a public prosecutor?—We, in the Court of Queen's Bench, set aside a writ of error very recently upon the ground that it had been obtained with a view to a compromise; but still, if there were a public prosecutor whose duty it was to superintend all such proceedings, the peril would not arise.

653. Mr. *Miles.*] Might not it be obviated by a slight alteration in the law, namely, obliging the defendant to be present before judgment was pronounced?—We have done a great deal to amend the criminal law. After Mr. O'Connell's case, Lord Lyndhurst introduced a Bill which had a most salutary object, which was to prevent a sentence of imprisonment being put in force pending a writ of error; and that gave great facility to these compromises for a time. I brought in a bill to amend that, which received the approbation of the House of Commons, it having been introduced in the Lords; and it has very much mitigated, or almost effectually prevented the abuses to which Lord Lyndhurst's Bill first gave rise.

654. Your Lordship has been kind enough to state to us the difficulties which occurred to your mind in bringing forward such a Bill as has been proposed by our Chairman to the House of Commons, when you were Attorney-general. Do you think that the same difficulties still exist, in preventing the Government bringing forward a measure of this kind?—I really think that it would be a very bold thing in a Government to bring it forward at present; if I were still Attorney-general, I should hardly have the courage to recommend it.

655. The alterations which have occurred between the time when your Lordship was Attorney-general and the present time, do not lead you to conceive that a bill so brought forward would be at all more acceptable to the country now than it would have been then?—I do not think that the circumstances have very materially changed, or that public opinion has materially changed since that.

656. I understood your Lordship to say that prosecutions are better conducted in Scotland than in England?—I really think so.

657. Is that as far as regards their primary state, before they come to trial?—They are better got up.

658. When they come to trial, they come into the counsel's hands. You do not prefer the way in which they are then conducted?—No. In the criminal courts, where I have the honour to preside, I find the business conducted with the greatest possible propriety, both by the counsel for the prosecutions and the counsel for the prisoners.

659. *Chairman.*] Taking the poorer classes of society, does not your Lordship think that the want of a public prosecutor operates very much to the hardship of the poor and the helpless, who cannot afford, for instance, to retain a solicitor to manage the prosecution, in the case particularly of children who are ill-used?—I think not.

660. Has your Lordship never known a case where there was great difficulty as to who should incur the expense, for instance, of prosecuting in a case where a child had been ill-used; whether it should be this parish, or whether it should be that parish, or who should take it up?—We have had questions of that sort before the Court of Queen's Bench.

661. Actually a dispute as to who should pay the money?—Yes; but still I do not think that offences go without investigation in England for the want of a public prosecutor.

662. Lord *Stanley.*] In the case to which your Lordship referred, you had a dispute as to who should pay the expenses of prosecution, but the prosecution went on nevertheless?—It was after conviction.

663. *Chairman.*] Was the attorney in that case obliged to advance the money; in your Lordship's opinion, would it not often happen, that although a case might be investigated, it would not be so thoroughly investigated where expense was requisite, as if such an office as that of public prosecutor existed?—That is not an evil which I have observed in England from the present system.

664. Is it not the case that the attorney for the prosecution is often obliged to advance the money for the investigation of offences?—Yes, he is often obliged to bring witnesses, and so on; but the attorneys are always very ready to do that, because they are sure of being reimbursed.

665. Has

665. Has your Lordship never known a case where an application has been made for expenses, and there has been difficulty about it, and application has been made to the court about it?—I have myself again and again refused the expenses where I saw that the prosecution has been instituted for improper purposes, and very likely with a view to run up a bill, and to put money improperly in the pocket of the attorney.

666. With regard, also, to cases of murder, for instance, where there is no person, very often, on whom the duty immediately devolves, does not your Lordship think that the want of a public prosecutor has been felt?—No; I must say that the cases of murder in England are always got up in a very efficient manner. I know of no exception to that observation.

667. Mr. *W. Ewart.*] The procurators fiscal in Scotland are in some cases appointed by the sheriff, and in some, I think, by the borough magistrates?—I believe so.

668. Is that a kind of safeguard against patronage?—I should think not; I should think there would be a greater risk of an improper appointment by the sheriff, and by the borough magistrates, than by a functionary acting immediately under the Crown.

669. It would be an exception to patronage by the Crown so far; but your Lordship does not think that it would be preferable?—No.

670. Has your Lordship ever attended to the difference between the French system of public prosecution and the Scotch, which seems to have been based a good deal on the same principle originally?—No. I have been a good many times in the French criminal courts; I have a tolerable notion of their procedure.

671. Has your Lordship paid any attention to the Irish procedure in prosecutions?—No; I know very little about that; for each circuit there is, I believe, an officer appointed.

672. *Chairman.*] Your Lordship is still of opinion that the criminal law is often shamefully perverted to purposes of private interest?—In cases of perjury and conspiracy, and indictment, as I said, for keeping gaming houses and brothels, it is most shamefully perverted.

673. Does not your Lordship think that the police very often, in county towns and at sessions, abuse their powers?—No, I am not aware of it.

674. Mr. *W. Ewart.*] Does your Lordship think it desirable to leave the power of prosecution open to the individual, as well as under the public prosecutor, as is the case in Scotland; or would your Lordship prefer the mode adopted in France, where everything is done by the public prosecutor?—I think myself that it is a privilege which has belonged to Englishmen, and of which they ought not to be deprived if it is properly guarded, to put the criminal law in force by their own authority. I should not like to see a system established here that there should be no prosecution unless instituted by a public functionary; but I think that it is most essential, and I have recommended it to the present Attorney-general, and, speaking most respectfully, I would recommend it to the Members of the House of Commons, to consider whether there should not be some check put upon prosecutions for perjury and conspiracy, and for keeping these gaming houses, and so on. I think that it would be well if these prosecutions could not be instituted unless with the sanction of a public responsible functionary.

675. Mr. *Miles.*] Would it be possible to put that in some shape or other in the Attorney-general's hands?—I think that the Attorney-general, or some person acting under his authority, ought to be the functionary whose consent should be necessary for instituting such a prosecution.

676. By giving the Attorney-general a proper staff there would be no difficulty at all?—I do not think there would.

677. Mr. *Philipps.*] Carrying out your Lordship's suggestion, there would be no new principle introduced, because such is the case with regard to Mint prosecutions; there is a check by the Crown?—There are various Acts of Parliament which impose penalties for certain acts, and no process can be commenced for recovering these penalties without the consent of the Attorney-general. For instance, there was the Religious Titles Act, which was passed upon what was called the papal aggression. I believe that those prosecutions cannot be instituted without the authority of the Attorney-general, and I believe that it would be an extremely wholesome restraint to be put upon those prosecutions to

Right Hon. Lord *Campbell.*

19 June 1855.

which I have referred for perjury and conspiracy, if the fiat of the Attorney-general, or some public functionary, were required before they were instituted.

678. I think your Lordship said that these prosecutions were shamefully perverted; I suppose we are to understand by that, that the prosecutions are not in themselves, in the initiation of them, unjust, but that they are perverted in their course?—Sometimes they are unjust; more frequently there is some foundation for them; and they are applied to improper purposes, and improper compromises take place.

679. *Chairman.*] Then your Lordship does not agree with the Report of the Commissioners on the Criminal Law, in the year 1845, which is summed up in this way: "The existing law is by no means so effectual as it ought to be; the duty of prosecution is usually irksome, inconvenient, and burdensome. The injured party would often rather forego the prosecution than incur expense of time, labour, and money. The entrusting the conduct of the prosecution to a private individual opens a wide door to bribery, collusion, and illegal compromises." Your Lordship does not concur in that to the full extent?—Not to the full extent, but to a great extent.

680. My Lord Denman, as I observe in his evidence given before the same Commissioners, says very much the same thing. He says that he thinks our system open to very great objections; and he particularly dwells upon the fact of the temptation to collusion which it holds out to the prosecutor?—That does not at all operate, I think, with regard to murders, or burglaries, or larcenies; but it refers to those private prosecutions which arise out of pecuniary transactions. It used to be a common practice, where there was a dispute upon some pecuniary matter, to file a bill in the Court of Chancery; an answer was put in; there was an indictment against the defendant for that answer; it was considered a common step in the procedure. Then, upon the indictment, very likely money may be paid without a trial; and if there is a trial and a conviction, money is paid after the conviction to prevent the sentence being carried into effect.

681. Your Lordship understands that, in the view which I have taken of this business. I never proposed at all to interfere with the right which your Lordship mentions, of allowing a private individual, if he thought proper, to put the law in motion; it would be most desirable that that should continue?—I think so.

682. My view would be, that if a person did it, he should do it at his own risk?—In the cases to which I refer, I think that it should be put under the restraint of the public functionary giving his sanction to institute a prosecution, and that that public functionary should superintend the progress of the prosecution until it is finally concluded, and the sentence has been carried into effect.

683. Generally speaking, your Lordship would not be of opinion that it was proper to interfere with the right which the party now possesses; but in all cases of perjury and conspiracy your Lordship would require the intervention of a public officer?—I think that the following suggestion might act as usefully, namely, that there should be no such thing as presenting a bill of indictment to the grand jury until there has been a previous complaint laid before a magistrate.

684. These are my Lord Denman's words: "Our procedure for the purpose of preliminary inquiry is open to great objection. The injured party may be helpless, ignorant, interested, corrupt; he is altogether irresponsible, yet his dealing with the criminal may effectually defeat justice. On general principles, it would evidently be desirable to appoint a public prosecutor." Does your Lordship agree in that?—Lord Denman, for whose memory I have the highest respect, was Common Serjeant of London, and presided in the Central Criminal Court a great deal, and had better opportunity of observing these matters than I have had; but it has not come under my own observation, that in regard to such offences as larceny or burglary, highway robbery, or any of those offences, certain evil has arisen from the private prosecutor proceeding without the intervention of a public prosecutor.

685. For instance, take the case of a rich man who has received an injury amounting to a criminal injury, and the case of a poor man, does not your Lordship think that the rich man is in a much easier position?—What is the offence?

686. Suppose a case of ill-treatment, personal injury?—I do not think that in England there is any personal injury which may not be brought to justice.

687. If a person can get an attorney to take up his case?—If there is the smallest

smallest ground for an action, an attorney will take it up without the slightest difficulty.

688. In criminal cases?—I think so.

689. The Criminal Law Commissioners had the evidence of a gentleman, who said that he undertook a prosecution for murder at the particular desire of the magistrates; that it cost him a great deal of time and trouble; that the man was convicted, and that in spite of all his efforts he was 40 *l.* out of pocket?—It is quite clear that either he was to blame or the judge was to blame; but you cannot guard against a judge making an improper decision. The judge who presided there ought to have taken care that he was fully recompensed for all that he had disbursed.

690. Would not it appear to your Lordship better that it should not be left to a private person to advance money for a public object, but that it should be done by the State?—I do not think that any practical injury arises from that. I tried the case of Barthelemy at the Central Criminal Court a few months ago, and after the trial I took very great pains indeed in asking what was to be paid to all who had attended, and to those who had been active in pursuing and arresting the prisoner. I believe that I did no more than any other judge would have done under the same circumstances; I take no merit to myself in the smallest degree; I believe that any one of my brethren would have done exactly the same; and I believe that justice was done to all who claimed either recompense or reward.

691. Mr. *Miles.*] Does your Lordship recollect what the costs amounted to which you allowed in that case?—I do not.

692. Something very large?—I had the very able assistance of the officers of the Central Criminal Court, who are most meritorious public servants, and consulting them, I believe that ample justice was done to all concerned.

693. From your Lordship's general knowledge of the circuits throughout England, do you not think that principle would be acted upon in the same way?—I think so. I believe that the entire confidence which is entertained that fair expenses will be allowed is sufficient encouragement for incurring the disbursements which are necessary before conviction.

694. *Chairman.*] Has it never happened to your Lordship to see a criminal case very ill got up for want of sufficient evidence being brought to convict the prisoner?—Yes, very often.

695. Would not a public prosecutor prevent that?—Most undoubtedly, and therefore I wish to have a public prosecutor; I do not at all recede from my opinion, that if we could have a public prosecutor upon the Scotch system it would be a very great improvement. I see very frequently that cases are very badly got up, and that there are cases where a prosecution ought never to have been instituted, from there being insufficient evidence. There are cases where there has been guilt, but where it is not sufficiently proved before a jury, on account of the case being negligently got up.

696. Therefore your Lordship thinks that it would be desirable, if it could be managed, that there should be a responsible person?—I do.

697. Mr. *Miles.*] Is your Lordship of opinion that it would be very much better that in every petty sessional division one clerk should be alone appointed by the magistrates to act as their adviser?—I should think that highly desirable, because it would give you the best chance of having an intelligent and honourable man; and the jurisdiction of the unpaid magistracy of England, which I believe upon the whole is very beneficial, has been very much improved by a magistrate now never acting, unless in public, and with the assistance of a clerk to the magistrates. Formerly the squire sat in his hall, and he had for his clerk his gamekeeper, and they had in the poacher before them, and then they did with him what they liked; but now there are no sittings, except at petty sessions, and this is done *coram populo*; and there is, I really believe, almost universally a respectable solicitor who acts as assistant and adviser to the magistrates; I believe that, with such advice, justice is now very satisfactorily administered by the magistracy of England.

698. Do you not think that it would be well, in any alteration of the law, to insist that a magistrate should not himself appoint his own clerk, but that that clerk should be appointed, as he generally is in the counties, by the petty sessional division?—I should think that that would be highly desirable.

699. *Chairman.*] Referring to another subject, has your Lordship ever turned

Right Hon. Lord *Campbell*.

19 June 1855.

your thoughts to the consideration of allowing the prisoners to call their witnesses at the public expense?—That would be in some cases beneficial, but it would lead to great abuse.

700. Suppose, for instance, such a system as this were adopted, that the judge should allow the expenses of a witness at the trial if it appeared that the witness was a material witness and the witness of truth. Mr. Davies tells us that that is the system in America, that the judge allows the expenses, and that he has rarely known it abused; I believe he says that he never knew it abused?—I think that worthy of great consideration; I think it would very likely be desirable.

701. With respect to France, I was reading the discussions, and they said that the allowing of witnesses to character had led to very great abuse. They there confine it to witnesses to facts. As your Lordship knows, the Procureur du Roi sends subpœnas to the witnesses for the prisoner at the same time as to the witnesses for the Crown; does your Lordship think that that might tend to establish innocence?—Under proper check, I think that it might be desirable to allow the costs.

702. To give the judge the power of allowing the costs of witnesses for prisoners?—I think that that is a matter to be considered very attentively; I believe that it might be found beneficial; at the same time, I cannot say that in my experience I have seen evil arise from the prisoner not being able to bring forward his witnesses; still there may have been a case without the judge being aware of it.

703. Your Lordship of course has often heard prisoners say, "My Lord, my witnesses were here two days, but could not stay any longer;" no doubt in many cases without being founded on truth, but still it is a painful thing to hear that said?—Yes.

704. The prisoner has said, "I am a poor man, and could not afford to bring my witnesses 30 miles;" or, "They have been here two days." I have known the judge allow that fact to be proved?—Yes.

705. I have always felt a certain degree of pain at its being possible for a prisoner to have such an argument as that?—But it would require very great precaution to prevent what is proposed being abused.

706. Mr. *Philipps*.] If public prosecutors were appointed, in your Lordship's opinion in whom might the appointment safely be vested?—I should say, certainly, in the Crown.

707. *Chairman*.] Supposing they were appointed, would your Lordship be of opinion that they should be appointed *dum bene se gesserint*?—I think that they ought not to go out with the Attorney-general, as they do in Scotland, which surprises me very much; because, when the Lord Advocate goes out, the deputes go out along with him. When I was Attorney-general, I had to resign, that is to say, I was turned out; but those whom I had appointed to act upon the circuits remained in, and I never removed any persons who had been appointed by my predecessors. That is a much better system than the Scotch system. I am surprised to find that there is such a blot upon the Scotch system. I believe, in America, with the President all the functionaries, high and low, throughout the whole Union are changed.

Mr. *Hamilton Richardson* and Mr. *Bertie Markland*, called in; and Examined.

Mr. *H. Richardson* and Mr. *B. Markland*.

708. *Chairman*. (To Mr. *Markland*.)] WILL you state what you are?—A Solicitor.

709. Have you been in practice as manager of the prosecutions for the borough of Leeds?—Yes, along with Mr. Rawson.

710. Are you deputy clerk of the peace?—No, I have nothing to do with the clerk of the peace.

711. You attend in prosecutions?—Yes; we perform the duties which are assigned to the district agent by your Bill, commencing after acquittal.

712. Will you be good enough to tell us how you came to be appointed; what led to your appointment to that office?—I believe it originated in this way, that there had been a great number of abuses committed previously to the appointment being made, both by members of my own profession unfortunately, and also in the shape of police officers taking fees from the attorneys, to get the prosecutor to give

give them a retainer. That led to an investigation by the borough magistrates, and also by the town council of Leeds in the year 1842; and the result of that investigation was, that Mr. Rawson and myself were appointed, I believe, in the first instance, for one year. That appointment continued for two years, and then an inquiry was made again into the matter how it had acted; and the same appointment was made of myself and Mr. Rawson, and it has continued ever since.

713. Mr. *W. Ewart.*] Was not the idea of establishing you as prosecutors adopted from Liverpool?—That I do not know; inquiries were made at Liverpool at that time, I believe.

714. *Chairman.*] In consequence of finding these abuses, among other abuses, police officers taking fees from attorneys to retain them for the prosecutions, you were appointed to manage the prosecutions?—Yes.

715. Are you paid by a fixed salary?—No.

716. Will you state the course which is adopted?—Directly the case has been committed by the magistrates, a copy of the depositions is forwarded to me by the magistrate's clerk. I prepare the brief, see that the necessary evidence is in the case, give the notices to the witnesses to attend, attend counsel, pay the fees, attend the trial, and pay the witnesses.

717. In short, you perform all the duties which, according to my plan, would fall upon the district agent?—Exactly so.

718. If the case were to fail for want of a witness who ought to have been called, you would be responsible for it?—I should.

719. You say you are not paid by a fixed salary, but by fees, like any other attorney?—Exactly so; there is a certain allowance; 17 *s.* 2 *d.* in each sessions prosecution, out of which we have to pay the clerk to the justices for the copy depositions.

720. You have been continued ever since, from which I suppose that the people of Leeds are satisfied with that system?—Yes. There was a reservation in the appointment, that any private party who was injured should have the option of conducting the prosecution at his own expense, and I believe there have been only two cases in which the public have taken advantage of it.

721. Where it was taken out of the public hands, and the private prosecutor chose to retain his attorney?—Exactly so.

722. There have been only two such cases since 1842?—Yes. We have conducted cases for most of the banks; we conducted cases of forgery upon Beckett's Bank, Brown Janson Barr & Company, and the Yorkshire Banking Company; we have also conducted cases for all the principal merchants and gentlemen in the town; also for solicitors themselves; and I have likewise conducted, from holding that office, a prosecution for another solicitor, where he resided out of the borough and was bound over himself to prosecute, but he wished me to do it in consequence of the practice and experience which I had had.

723. Have you turned your thoughts to the subject of expense; you have been good enough to read my Bill, I believe?—I have.

724. In your opinion, supposing that Bill were carried into effect, would the expense of criminal prosecutions be increased through the country?—I think it would be diminished.

725. Will you state your reasons for that opinion?—In one respect it would be diminished in all cases which are committed to the assizes, by reason of one attorney conducting the whole of the prosecutions, instead of where there are 12 or 14 cases, 12 or 14 different attorneys being employed.

726. Of course that would be a material saving?—No doubt it would be a saving. That would not be the case with respect to borough prosecutions, where the allowance is so small.

727. With regard to frivolous prosecutions, do you think it would have the effect of stopping any frivolous prosecutions?—No doubt of it; and if the district agent attended before the justices, I think it might be a very great saving of expense in the number of witnesses bound over; for necessarily it must frequently be the case that witnesses are bound over before the case is concluded, where it has not been finished in one day; where if it had been finished all at one time, and had been properly looked into, many of them might have been dispensed with. The attendance of the witnesses is a material part of the expense in a prosecution.

728. Does your experience tell you that witnesses are often called only for the sake of swelling costs; that three or four witnesses are brought to prove what

Mr. *H. Richardson* and Mr. *B. Markland.*

19 June 1855.

perhaps two might prove, and so on?—That is the case sometimes, where the prosecution is got up by a police officer who is ignorant of his duty, or a novice in the matter.

729. Taking another view of it, with regard to the poorer class, do you think that injuries often escape punishment from the helplessness of the poorer people to carry on a prosecution?—An Act of Parliament passed a short time ago which I think rather removed that in cases of assault. In cases of assault now the costs of the prosecution are paid by the public, so that that does not operate as it did a few years ago.

730. With regard to cases where there is nobody who has a direct interest in carrying on the prosecution, as in cases of murder, is there sometimes a difficulty in finding people to undertake them, or to advance the expense?—We have often to advance the expense. I have generally to advance the allowance of witnesses to go, and I have lost that allowance myself in consequence of the disallowance by the judge to the witness.

731. Has it happened to you, for instance, that the judge has disallowed expenses which have been advanced by the attorney?—Yes.

732. Really fair and legitimate expenses?—Yes, what I consider so.

733. Judges take very different views of a case in which expenses should be allowed?—For instance, in a case of perjury, where the party was committed by the magistrates and convicted, one of the judges chose to disallow the expenses altogether. I paid them.

734. There was a case of murder in which I myself was concerned, in which it was exceedingly important not only to get a particular witness, but to get a plan of the premises in which the murder had been committed. In that case the judge said that the county had been already put to great expense, and he would not allow any more. Have you ever known a case similar to that where the judge has refused the expenses of a witness who was really necessary, because he thought that the expense was too great for the county?—I cannot say that I have. I think with us the taxing officer has been very liberal.

735. But it is necessary in many cases for the attorney to advance money for the prosecution?—For the attendance of the witnesses, and to pay the counsel too.

736. And in some cases that amounts to a considerable sum?—No doubt.

737. Does that sometimes produce a tendency to a failure of justice?—Sometimes the witnesses could not possibly go without it.

738. Does that circumstance of the attorney being obliged to advance the money tend to a failure of justice, in your opinion?—If the attorney would not advance the money, no doubt it would; but an attorney would, I think, almost always run the risk of doing that.

739. Mr. *Miles.*] Do not they always do it?—Generally; I cannot say that they always do it; but I have always run the risk myself.

740. *Chairman.*] But you have known what you think fair and legitimate expenses disallowed?—I have.

741. With regard to the cases of children, have you ever known any particular cases of the ill-treatment of children?—No; those would come before the magistrates.

742. I understand you to say that in consequence of abuses which prevailed before your appointment you were appointed, that you have continued to hold that appointment since 1842, and that no similar complaints have arisen?—I have not heard of any.

743. And that you have fulfilled precisely the duties which under my Bill would be assigned to the district agent?—Yes.

744. Do you believe that that has increased or diminished the expense?—I think it has diminished it.

745. And you think, with regard to expense, that if such a system as mine were adopted, it would not add to the expense of the administration of criminal justice?—It would depend upon where the Bill commences.

746. Where would you put it?—Your Bill goes rather further, I think, if I may say so, than could be practically carried out, with respect to what you call a public prosecutor conducting the whole of the cases.

747. You would not have a barrister for a public prosecutor?—I should continue the delivery of briefs as at present.

748. Putting that aside, I am speaking of the particular part of the plan which

which refers to the duty of the district agent, which is the duty you are now called upon to discharge; in your opinion would the appointment of district agents, having duties similar to those which you now perform, increase the expenditure in the administration of criminal justice?—I think not; I think it would diminish it, especially if the district agents attended before the magistrates before committal; and if any complaint was made to them by the police officer in the first instance, and they saw that the proper witnesses were taken before the magistrates, and no unnecessary witnesses, I think it highly desirable that the magistrates' clerk should be an independent party. Whereas, as is now the case, of course, if a policeman wishes any advice as to what witnesses should be summoned, he has nobody to go to but the magistrates' clerk, and if he advises that certain witnesses should be summoned to attend before the magistrates, he becomes a partisan in the matter rather than otherwise, and it is very desirable that he should be merely there to advise the magistrates and take down the requisite evidence.

749. Mr. *W. Ewart.*] What is the difference between the time when your action as public prosecutor or district agent commences, and the time when it commences by the Chairman's Bill?—In the Bill it commences on apprehension; t does not commence with me until after committal.

750. Mr. *Walpole.*] When you said that you had known that legitimate expenses had been disallowed, I suppose there was some reason assigned by the judge for the disallowance of those expenses?—No doubt he had a reason in his own mind.

751. It was a question of discretion as to whether those expenses had been properly incurred or not?—Exactly so.

752. You would not wish, I suppose, the judge to be deprived of that discretionary power of saying that the expenses ought not to be allowed?—Certainly not.

753. By your answer you did not mean that those expenses which were disallowed, were expenses which were improperly disallowed?—I meant that they were expenses which might have been properly allowed.

754. In your opinion?—In my opinion; it was a case which had been committed by the magistrates.

755. I understand you to say that by the appointment of district agents in different parts of the kingdom in the character of public prosecutors, you think that the expenses of these public prosecutions might be diminished?—I do.

756. In your opinion a public prosecutor should not be a barrister, as I gather from you?—Not the district agent.

757. Have you at all considered how many of these district agents you would require?—No.

758. Have you at all considered what salaries you would have to pay them?—I think the present allowance would very nearly cover the salary which would be required.

759. But arithmetically you have not gone through the calculation, so as to be able to inform the Committee what would be probably the difference of expense under the present system, and under the system by which district agents would be appointed?—As it is at present conducted with us, there could be no additional expense.

760. Why not?—Because we merely receive the same allowance as is paid throughout the kingdom, the taxed costs.

761. That is at Leeds?—Yes.

762. It would not follow that it was so in other places?—In other places they receive the same; in every case of committal there is a certain allowance for conducting the prosecution.

763. But if the committals were less, in consequence of the appointment of district agents, would you not probably have to pay the district agent more in certain parts of the kingdom?—If you took his whole time, you probably would.

764. You have not gone through the calculation so as to be able to inform the Committee of the difference of expense?—I have not.

765. Mr. *W. Ewart.*] Do you think it would be preferable to have fixed officers, who should have the origination of the prosecutions, or do you think it more desirable to leave them open, as now, to private individuals?—I think it would be desirable to extend the action of the district agent, and to make it

Mr. *H. Richardson* and Mr. *B. Markland.*

19 June 1855.

from apprehension instead of from committal. I think that would create a great saving of expense in the number of witnesses bound over.

766. Mr. *Walpole.*] You are appointed by the municipal corporation of Leeds, are you not?—Yes, and the magistrates.

767. Whom would you propose as the persons to appoint the district agents in other parts of the country?—I should not like to give an opinion upon that.

768. Mr. *W. Ewart.*] Your official action dates from committal now?—Exactly.

769. You think it should be extended to the period from apprehension?—Yes.

770. Would you still leave it open to private prosecutors to have the same power individually as would exist in the prosecuting officer?—I think they should not be deprived of the right to prosecute if the magistrates did not choose to commit.

771. Mr. *Miles.*] Do you find that the depositions which come into your hands after the committal of a prisoner, and which are taken before the magistrates, with the assistance of the magistrates' clerks, are slovenly got up?—Certainly not. The clerk to the Leeds justices is a most able and experienced clerk.

772. They are got up without your assistance in any way?—Certainly.

773. After the committal takes place, and the depositions come into your hands, you merely then prepare your brief, and employ counsel?—And get any further evidence that may be necessary.

774. After looking over the depositions sent to you, do you inform the magistrates' clerk that such and such evidence is wanted, and that you think it better to be procured?—No.

775. Then do you, after the examinations have taken place, get evidence which is produced to the Court itself?—Yes, on the trial.

776. Do you find it necessary to do that in very many cases which come before you?—Frequently.

777. Can you at all proportion the cases of depositions which are sent to you perfected, upon which a committal has taken place, and those upon which you afterwards think it necessary that further evidence should be produced?—I cannot now. It might be easily done.

778. Can you give any average?—In every case where there has been any previous conviction of the prisoner there is a witness required to prove that he has been convicted.

779. Is not that the duty of the gaoler?—Certainly not. The gaoler, whoever he is, must be subpœnaed to give the evidence, and it is not his duty to communicate with the clerk of the peace. It is the duty of the attorney to produce the proper witness to prove that conviction, and not the duty either of the clerk of the peace or of the clerk of the arraigns.

780. Then is it generally only in cases of previous convictions that you find it necessary to produce other witnesses than those who have been produced before the magistrates previously to committal?—There are a great number of others; it necessarily must be so.

781. Have you any tabular statement, to show the number of commitments, the number of convictions, and the number of acquittals which took place previously to this new system being introduced into Leeds?—The clerk of the peace will produce those.

782. (To Mr. *Richardson.*) Will you be kind enough to produce them. Will you give the three last years before this new system took place, and the three first years afterwards, or the three last years?—In the three years preceding the new system, that is, up to and inclusive of Michaelmas sessions 1842, there were 993 committals, including all indictments (when I say all indictments, I am speaking of misdemeanors of every kind); 59 bills were ignored; 201 persons were acquitted; 276 pleaded guilty, and 383 were found guilty on trial, being a total of 659 convictions; 18 were sent for trial to the York assizes; eight cases were respited, and therefore to a certain extent have been repeated in the return. Against 37 persons indictments were preferred who were not in custody; upon nine, no proceedings were taken, probably being indictments for some misdemeanor rather of a civil character than otherwise; there were no indictments removed by certiorari; two prisoners died before trial. The result of that is, that of the commitments, the proportion of convictions to commitments is 66·36 per cent. In the three years succeeding the appointment, there were 781 commitments; 39 bills were ignored; 184 persons were acquitted; 123 pleaded guilty,

guilty, and 367 were found guilty; making a total of 490 convictions; 26 were sent for trial to York assizes, the Quarter Sessions Jurisdiction Bill having come into operation during that period, which occasioned a considerably larger number of cases to go to York assizes than had done formerly. Twenty cases were respited; eight persons were indicted who were not in custody; against nine there were no proceedings taken; three indictments were removed by *certiorari*; in the case of one prisoner, the jury was discharged without having given a verdict, and one prisoner died before trial; making 62·6 per cent. of convictions upon commitments. But as this does not at all do justice to the public prosecutors (and as I am deputy clerk of the peace, of course I am not saying anything personal), I am rather anxious to draw the attention of the Committee to one very curious fact connected with this return; and that is, that from some cause, which it is utterly impossible to explain, in the three years preceding the appointment of a public prosecutor there were more than double the number of persons who pleaded guilty in proportion to the number who pleaded guilty in the three years succeeding it. Therefore, if you take the results of the trials, which, of course, test the mode in which the cases are got up, the total number of convictions were 659 in the three years preceding the appointment; the acquittals were 201, and 59 bills were ignored; making a total of 919 cases actually disposed of by the court of quarter sessions. The convictions on trial were 383, or 41·7 per cent. In the three years after the appointment the total of convictions were 490; the total of acquittals were 184; the total of bills ignored were 39; making altogether 713 cases disposed of. The total number of convictions on trial were 367, or 51 ½ per cent. I am sorry to say I only received Mr. Phillimore's summons on Friday, and these are details which take a good deal of making out. I had them sent up from the country after me, and only received them this morning, so that I have not had time to analyse them properly; but if the Committee will allow me, I will make an analysis of the returns, and forward them to the Chairman afterwards.

783. Will you be kind enough to perfect that paper, and then hand it in?—I will analyse it as far as I can do so, and then send in the result.

784. (To Mr. *Markland.*) You have looked into this Bill proposed by the Chairman of this Committee?—I have.

785. You found fault, as I understood you, with certain parts of the Bill; have you looked at the part of the Bill in which certain persons are to be appointed previously to committal?—I have.

786. What is your opinion upon that part of the Bill?—I think previously to committal it is very desirable.

787. If that part of the Bill was carried into general effect, have you at all looked into the immense sums of money which must be necessarily spent in carrying out that part of the Bill?—I think it would be a saving of expense in the number of witnesses who would be bound over to give evidence.

788. Supposing that you were enabled as district prosecutor to check that, and that when the depositions came before you, you read them over, and said such and such a person is not wanted; do not you think that if that power were given to the district prosecutor it would be sufficient, without employing all these sub-agents?—I think the district prosecutor would not like to take that risk upon his own shoulders, to give a witness notice not to attend when he had been bound over by the magistrates, under recognisance, to attend.

789. You say that the depositions are frequently two or three days in perfecting?—Yes.

790. And I understand you to state, that owing to that time elapsing, when the evidence is perfected, if the magistrates had not bound over certain persons they would not have been bound over at all, because they would then be found to be worthless witnesses?—Yes.

791. In that case it would be very little for the district prosecutor to say, "These persons are not wanted, therefore I will give them notice not to come." Would there be any difficulty in that?—No solicitor would take that responsibility as to any witness who had been bound over to attend.

792. I am talking of new powers; supposing new powers to be given, do you think there would be any difficulty in the solicitor saying, "Such persons are not wanted, and therefore they need not come"?—There might be very great difficulty, because the prisoner expects that every witness who is bound over

Mr. *H. Richardson* and Mr. *B. Markland.*

19 June 1855.

shall be there, and he may wish to ask such a witness certain questions, and his defence may be prejudiced by his not being there.

793. Then you would feel a difficulty in any change of that kind?—I should.

794. Having read over the Bill proposed to the House of Commons, do you find any other difficulties connected with it?—I think that the appointment of a barrister for a public prosecutor, conducting every prosecution, would be perfectly impracticable.

795. There is a power likewise of employing another?—That is only in a second court.

796. Does a large bar attend the Leeds sessions?—Very.

797. Do you find that it is excessively useful in bringing young barristers forward, that different criminal briefs should be put in their respective hands?—Yes.

798. Would not that be totally destroyed if you had a public prosecutor?—By this Bill it would, no doubt.

799. And you think that that would be detrimental not only to the interests of the bar, but to the interests of the public?—Yes, very.

800. Mr. *W. Ewart.*] Has it been found detrimental to the interests of the Scotch bar?—I cannot answer that question.

801. *Chairman.*] Or detrimental to the interests of the French bar?—I cannot answer that question.

802. Mr. *Philipps.*] When a bill goes before the grand jury, do you take any part in it as to the order of calling the witnesses, or what witnesses it may be desirable to call?—Yes; I endorse the indictment with the witnesses in the order they should attend, and of course the grand jury generally call them as they are on the back of the bill; I so arrange them as I think will give them the least trouble; I have been frequently called in before the grand jury to explain, because in a large manufacturing district like ours, we have very serious and very heavy cases frequently occurring.

803. In fact, you assist to a certain degree when the bill is before the grand jury?—If they require it.

804. Mr. *Miles.*] Do you of necessity attend before the grand jury, or are you sent for when you are wanted?—I always attend in an adjoining room, so as to be ready if wanted.

805. From the number of times that you may have been called in, do you or do you not think that it would be an assistance to the grand jury if some person in your situation was to attend generally with the bills, who, if asked questions, should be able to put them right as to any little points which might arise?—I do; I have known cases frustrated, and bills not found in consequence of the want of it.

806. Do you believe that there would be no objection whatever on the part of the grand juries to adopt such a system?—I think not.

807. *Chairman.*] You do not think, as I understand, that it would be desirable to give the office of public prosecutor to barristers, but you assent to that part of the Bill which relates to the district agents?—Yes.

808. Mr. Miles has asked you whether it would not be to the disadvantage of barristers not to hold briefs; supposing that the administration of criminal justice was more efficacious, you would scarcely think that the interests of the barristers at Leeds, or anywhere else, should be put in competition with it?—I think the public interests would be very much prejudiced if the bar were knocked on the head altogether; if there were no nursery, which I consider the sessions to be.

809. Do you think it would be knocked on the head?—I think it would have a very serious effect.

810. Do you think that it has knocked the Scotch bar on the head?—I do not know.

811. Do you think that it has knocked the Irish bar on the head?—I do not know.

812. Do you think that it has knocked the French bar on the head?—I do not know.

813. Give me leave to call your attention to the following passage: "A most atrocious murder took place in my division; the woman who was murdered was a poor labourer's wife, and had several children; the party who was suspected of having

having committed the murder was a vagabond living close in the neighbourhood, who had been connected with her—I have no doubt improperly—and ultimately got jealous; he shot her and burnt her; she was a perfect skin and bone. The coroner sat upon the body, and one or two of the division magistrates came over to me and said, We think this is a case requiring looking to, perhaps you will see to it. Of course they had no power over me to tell me to do it. There was no person whom I could look to as the prosecutor; the parties were all poor; it was since the operation of the Poor Law Amendment Act, and I knew the parish could not pay. I took the hint and went to work, and upon the exertions which I made, the case was made out upon the evidence of, I think, six witnesses, sufficient to induce the coroner to commit. I saw the magistrates again afterwards, and they said, This is really a case which ought not to go unprosecuted; we do think the thing ought to be taken up. Of course I understood what that meant; it was not anything which compelled me to do it, but still I felt I was in duty bound, as what I should like to see generally the public prosecutor of the division, to take the matter up. I did so. I had occasion to get witnesses from Manchester, where the party was apprehended. I subpœnaed twenty witnesses, independently of those whom the coroner had bound over. The case took from nine in the morning till eight at night; the party was convicted and executed; and I think a clearer case never went into court. I had the satisfaction of receiving the compliments of the judge and the bar, and of my brother clerks, who said the case was well got up, and I had the satisfaction of losing about 40 *l.*" Does your experience lead you to think, not of course that so remarkable a case as that often happens, but that a similarity of circumstances, the attorney losing by the prosecution, when he was to advance money by bringing witnesses to the trial, may often occur?—It may occur certainly, but I think not very often.

814. You said that you had known cases where just and legitimate expenses were refused?—Yes; in one case altogether, and in other cases witnesses for non-attendance, or for not giving the same evidence as before the magistrates, and for other reasons.

815. Have you known cases where the attorney has been refused what you have considered legitimate expenses in getting up the prosecution?—Yes.

816. This is one of those cases in a case of murder?—Yes.

817. Mr. *Miles.*] Does not it very often happen that though a witness may be necessary to the case, he is not forthcoming when he is called by the judge?—It does.

818. Does not the judge then almost invariably not allow his expenses?—Yes.

819. *Chairman.*] I am talking of the attorney not being repaid the money which he has advanced in the prosecution. Have you known cases where the attorney has been refused what you consider fair and legitimate costs?—I have.

820. Not such a case as Mr. Miles has just put, where a witness had incurred the judge's displeasure?—No; but where the case went to conviction.

821. Mr. *Miles.*] Have you ever known the case of a witness who has been necessary to the prosecution, who has behaved himself properly, who has not perjured himself, in which the costs were refused?—Yes.

822. Will you name it?—I have named a case where there was a conviction, and the whole of the witnesses' expenses were disallowed; it was a case of perjury.

823. Mr. *Walpole.*] What was the reason?—I do not know.

824. Mr. *Miles.*] Have you ever known it occur in felony?—No.

825. In any way?—No.

826. Mr. *Philipps.*] If the costs were, in your opinion, improperly disallowed, you would think it the fault of the judge or of the clerk of assize, would you not?—I have no complaint to make.

827. Supposing such a case as that to occur, the judge or the clerk of assize would be the cause of it?—I think there must be some reason.

828. In such a case as that, where the judge complimented the prosecutor and disallowed his costs, would you not think the words and the acts of the judge rather at variance?—Yes.

829. *Chairman.*] The judges constantly take contradictory views on that matter?—No doubt.

830. The attorney has to take journeys, and has duties to perform besides bringing witnesses, which occasion proper and legitimate expenses?—Yes.

Mr. *H Richardson* and Mr. *B. Markland*.

19 June 1855.

831. The question is whether those are to be allowed or not?—Yes.

832. In your opinion, would it be for the benefit of society that that should not depend upon the action of the judge, but that there should be a district agent entitled to superintend that preliminary proceeding?—I think it would.

833. Mr. *Walpole.*] You would not make the public prosecutor the person to determine whether the expenses should be allowed or not, would you?—Of course he would be responsible for his office, and if he abused that office he would be liable to be dismissed.

834. Is not the judge to have any opinion at all upon the question when the case comes on for trial?—An attorney may do his duty, as he thinks, to the best of his ability, and expend large sums of money in so doing, and he may then be deprived of those sums which, if he were sure of being repaid, he would disburse to the best of his ability.

835. Who do you think is to be the person, either under the present system or under any system which you are going to substitute for the present one, to determine whether expenses are to be allowed or not?—I think the district agents might be very safely entrusted with it. It is so in the case of the Mint prosecutions and the Post-office prosecutions.

836. *Chairman.*] And in the Scotch cases?—I do not know; but I know that the solicitor for the Mint and the solicitor for the Post-office both determine that matter; there are certain allowances.

837. Mr. *Miles.*] Upon the present system, as far as quarter sessions go, is there not a scale determined by the magistrates at quarter sessions, and are not the witnesses and attorneys and different persons paid according to that scale?—They are.

838. Is there not likewise another scale by the clerks of assize?—Yes.

839. And are not the different persons paid according to that?—Yes.

840. Supposing it comes to a question of payment of costs or not, is not the chairman in the one case appealed to and the judge in the other, whether the costs are proper?—Yes; costs are never allowed at assizes without an order of the judge.

841. Therefore do you conceive, in any alteration of the law, that the person who gets up the prosecution is the proper person to state the amount which should be paid upon it?—I think he might be safely trusted with it.

842. Mr. *Walpole.*] You would have no check upon the expense which he might think it right to incur?—Of course there would be the check of his appointment being at stake if he abused the office.

843. Mr. *Miles.*] Would you have his accounts audited?—Yes.

844. By whom?—By a person properly appointed.

845. Mr. *Walpole.*] If he audited the accounts, would he not have the power of cutting down the expenses if he thought them improper?—Certainly he might have.

846. *Chairman.*] We are supposing the appointment of a district agent; if the appointment of that district agent prevented the necessity of the attorney advancing money for the prosecution, in your opinion would it be an advantage?—I think it would; but I do not see how witnesses frequently are to get to the assizes without the money being advanced to them, and the district agent must advance that money.

847. The district agent would be paid by a salary?—Yes.

848. And he would have no sort of interest in making any improper allowance?—Exactly so.

849. The expenses of witnesses that he thought necessary would be paid by the public?—Yes

850. In your opinion, that would be an improvement upon the present system?—I think it would.

851. Do you believe that it would save a good deal of expense which is now incurred?—I do.

852. Have you turned your attention at all towards another point, with regard to the propriety of allowing prisoners to call witnesses at the public expense; enabling the judge to certify that, in his opinion, the prisoner's witnesses were necessary witnesses, and had spoken the truth, and in that case allowing their expenses?—Our attention was turned to that point some time ago; and the Leeds justices frequently, in cases of importance, have bound over the prisoner's witnesses to attend at York, with the hope that thereby they might be allowed

allowed their expenses, but the judges have refused to allow them. It was thought with us that it would frequently be very desirable to do so.

853. That in many cases the ends of justice would be facilitated by it?—Yes.

854. (To Mr. *Richardson.*) Have you anything to add to what Mr. Markland has told us?—There are some points of opinion on which I do not entirely agree with my friend Mr. Markland; on most of them I do; I believe I can also give a little more accurate history of the circumstances which led to the appointment. My father was elected clerk of the peace in 1836, and since that time, first as his clerk, and subsequently as his partner, and in the last few years as deputy and acting clerk of the peace, I have had the management of almost the entire business of our Court of Quarter Sessions. Prior to my father's appointment, the prosecutions were conducted by the justices' clerk almost invariably, and they were very well managed. The Municipal Reform Act rendered that impossible, and our scale of allowance not being sufficient to remunerate any respectable practitioner unless he had a very large number of prosecutions, it was soon found that the prosecutions got into very inferior hands. The circumstances which Mr. Markland has mentioned were found to exist; many of the police were in the habit, I believe, of receiving something approaching to a market price for prosecutions, which were sent to particular solicitors. It was found that at the assizes where a solicitor was allowed a certain fee upon one prosecution, and a smaller fee for his attendance if he had a number, some of the solicitors were in the habit of borrowing the names of others, in order that they might get the larger fee several times repeated. I was told (I do not know how far it was authenticated) that in at least one case, under different names, the same solicitor had prosecuted and defended the prisoner. A good deal of attention was drawn to this, and the example, as mentioned by Mr. Ewart, of Liverpool and Manchester was quoted, for the appointment of solicitors who should take all prosecutions, one of the heads of the police being bound over, with the understanding that he would employ these gentlemen. In one case which came within my own knowledge, and which I mentioned in a report to the town council at the time, in which one solicitor prosecuted, out of 12 prosecutions which he had at our sessions, in seven indictments either the bills were ignored or the prisoners acquitted. The returns of which I have given an abstract to the Committee, and which I will send them somewhat more fully, will show the result of the appointment. It was found to work exceedingly well, and it was continued because it did work well. The same gentlemen have had the appointment from the December sessions in 1842, when they were first appointed, until the present time, and, as Mr. Markland has mentioned, they are exactly similar to the district agents provided for by the 11th section of the Bill, excepting that they take no part whatever in the preliminary investigation; they have nothing whatever to do with the case until after committal. If the Committee will allow me to make one or two suggestions as to the practical effect of some clauses of the Bill, there are one or two which I am anxious to submit to the Committee. The supervision required to be conducted by the public prosecutors proposed to be appointed by the Bill would require guarding in one very important point, and it is this: supposing in the case of the county of York, which is a county of immense extent, that during the assizes a person were brought up for examination at, we will say, Sedbergh, which is 60 or 70 miles from York, the assize town; unless the magistrates had power under emergency to commit without consulting the supervising officer, the necessary result would be that that man, instead of being tried at the pending assizes, would be imprisoned until the following assizes, and the same thing must occur very frequently at the quarter sessions. In the borough of Leeds of course it would be very easy to provide for that, for although we have a population of above 170,000, all the examinations take place under the same roof in which the sessions are held; but in the county it would be indispensable that a man should be imprisoned from one assizes until the next, if the supervision were made peremptory under such circumstances, in the event of his having to be examined during the assizes at any distance from the assize town.

855. I do not think it is made peremptory, it only says that the public prosecutor shall, if required, give his advice and assistance; it certainly was not my intention to make it "peremptory;" I understand you to say, that if a magistrate had not the power of committing without the sanction of the public prose-

Mr. *H. Richardson* and Mr. *B. Markland.*

19 June 1855.

cutor, it might lead to the hardship which you describe; I never meant to take away from the magistrate the power of committing if he thought proper?—If it be made perfectly clear that the magistrate has the power, it will completely obviate my objection, but the words are, "on the receipt of the statement;" it appeared to me to raise a doubt; I refer to clause 4.

856. Mr. *Miles.*] If anything occurred to the magistrate's mind on which he wished to consult the public prosecutor, would not the same thing occur?—Yes; but then one would assume that the magistrate would consider it a case in which the public interest required that such inconvenience should arise; it would be impossible to avoid it. Another difficulty is one which has been mentioned by Mr. Markland, about the conduct of the cases at the sessions; I am anxious just to mention a few figures to the Committee, which I think will show them the utter impossibility of anything of the kind at Leeds sessions, as that a public prosecutor, with one assistant, should conduct the cases. We have two courts almost always sitting during the whole period that the trials are going on; we have had above 130 cases at one sessions; of course it is impossible to tell who will plead guilty, and therefore it is impossible to tell which cases will be taken in each court or how they can be divided, and it would be inevitable that these gentlemen, if they were to conduct the cases, should make themselves masters of the whole 130 briefs, which I need not say would be utterly beyond the powers of any man to accomplish. Then there is another difficulty, under section 9, also resulting from the same facts, and it is this: it is quite impossible to provide for the emergencies of each sessions until very near the time when the sessions will be held, because within a very short time of the same period at which we had above 130 cases, we had a session at which we had less than 50 cases, and of course the provision which is requisite for one would either be utterly inadequate, or most absurdly excessive for the other.

857. *Chairman.*] Your 130 cases are generally slight cases, I suppose?—A great many of them would be slight cases.

858. The great majority of them are trifling cases?—Yes; a few would be heavy; taking the average of sessions, there would probably be from 8 to 10 per cent. of heavy cases; housebreaking, and cases nearly approaching to burglary.

859. You try cases of horse-stealing too?—Yes. I am likewise anxious to suggest another thing, which is this: there seems scarcely a sufficiently defined distinction between the duties of the attorney appointed by the justices at petty sessions, and of the district agent as to the management of the serious and important cases.

860. Mr. *Philipps.*] To which section do you refer?—Sections 10 and 11.

861. *Chairman.*] It does not appear to you that the district agent is the superior to whom in cases of doubt the attorney is to apply?—It is not sufficiently defined in which cases the district agent is to intervene.

862. Would not that be decided by the attorney himself?—It is desirable that it should not be left in doubt, because otherwise if you had quarrelsome officers, serious inconvenience would arise. I think those are the principal points, but there are also one or two points on which I wish to explain something that my friend Mr. Markland has said. As to previous convictions, probably he may not be aware of the fact that the gaoler always does communicate with the clerk of the peace in Leeds, but although it is the duty of the gaoler to give the information, it is unquestionably the duty of the district agent or the prosecution agent, to get up the evidence, and I have known cases in which there has been a complete failure of proof in consequence of there not being the witness who was requisite to prove a previous conviction; a man has been called who had possibly been present at the trial, but who could not positively swear to the identity. I have a return made to me every sessions by the governor of the House of Correction at Leeds, and also by the governor of the House of Correction at Wakefield, who is allowed his expenses for coming over to look at the prisoners, to see who has been previously convicted. I may also mention as to the prisoner's witnesses, that my attention has been drawn a good deal to that in consequence of our magistrates binding them over, and for a long while I always acted upon the rule that I would allow the costs of the witnesses whom they bound over, thinking it a very grievous hardship upon a prisoner that proper witnesses (and of course I assumed that the magistrates would take care that only proper witnesses were bound over) should not be called without putting him to

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an expense which he could not bear; but of course when I found that the judges at York refused to allow those expenses, I did not consider that I was warranted in allowing them contrary to their *dicta*.

863. Mr. *Miles*.] The principle adopted in Leeds, as I understand, until this *dictum* was given by the judges at York, was, that you allowed the witnesses to come before the justices to state their case as regarded the prisoner, and then with respect to such as you thought were proper to his defence, you endeavoured to take care that they should have their expenses paid to York?—At the borough sessions.

864. Do you not conceive that that would be a great improvement in the jurisprudence of the country?—An immense improvement.

865. To whom would you leave it to say who are the proper persons to be called as witnesses for the prisoner. Would you leave it to the justices before whom the examination takes place previously to the committal, or would you leave it to the judge to determine, after he has heard all the evidence, as to the amount of expenses of the prisoner's witnesses?—My own impression is, that whenever the justices think that a witness should be bound over, and they bind him over, so that his attendance is compulsory, he ought to have his expenses allowed; but that, in addition to that, the judges should have a discretionary power, because it may happen that the prisoner has been committed before he has had time to consider and know properly what witnesses he ought to call.

866. In large towns the persons, for the most part, who commit crimes are resident in or near those large towns; of course they would be enabled, in the preliminary inquiry, to get their witnesses, if they were true witnesses, much more easily than if they were sent to York, would they not?—No doubt they would; but it must be borne in mind that they are frequently illiterate persons; they do not know how to set about it as any one conversant with the administration of justice would do.

867. *Chairman*.] Probably till they have seen their solicitor their mind does not shape itself to it at all?—No.

868. Mr. *Miles*.] Then as I understand, you would make it legal to pay the expenses of the witnesses for the prisoner, and you would allow the judge to determine, if necessary, that those witnesses who had not been called on the previous examination, but who might be examined in court before the judge, for the prisoner, should be paid their expenses?—Certainly.

869. *Chairman*.] With regard to the points of my Bill, which you have been good enough to criticise, you do not think that the line is drawn sufficiently clearly, as I understand, between the magistrate's clerk, who in ordinary cases would perform the duties of the district agent, and the district agent, who would exercise a sort of superintendence over the whole proceeding; are there any words which you would suggest as an alteration?—The distinction is not as respects the magistrate's clerk, but between the attorney appointed under section 10, and the district agent under section 11. I would suggest some words such as these, "upon requisition by the attorney-at-law appointed by the justices, as hereinbefore mentioned," in lieu of the words "where it may be necessary" in section 11.

870. The particular difficulty which you mentioned with regard to the barristers would be obviated by a slight change enabling the appointment of a greater number of deputy prosecutors if it should be necessary?—That undoubtedly would be so.

871. It would not be an objection to the material part of the Bill, but would be a mere matter of arrangement?—That undoubtedly is so.

872. With regard to the general objects of the Bill, have you ever known a disgraceful scramble to take place between attorneys for the management of prosecutions?—That was exactly the cause which led to the appointment of public prosecutors in Leeds; it was the constant practice.

873. There was a constant scramble?—Yes. I may also mention what I have known in my own experience. I believe I never conducted but three prosecutions in my life, but one of those was a case in which I should have been out of pocket if I had only got the county allowance. It was a case of considerable public interest; it was a case of fraudulent bankruptcy, and one involving very great difficulty indeed in getting the evidence together. The man had built up a considerable quantity of his shop goods in an attic, and plastered it over and burnt charcoal in the attic to give it the appearance of old plaster, that it might

Mr. *H. Richardson* and Mr. *B. Markland.*

19 June 1855.

appear as if it were the old wall of the attic. In that case we got an allowance of about 150 *l.*, and we should have been considerably out of pocket if the Court of Bankruptcy had not allowed us expenses, in addition to the county allowance.

James Hemp, Esq. called in; and Examined.

James Hemp, Esq.

874. *Chairman.*] WHAT office do you fill?—I am now Assistant Clerk of Arraigns at the Central Criminal Court, and also Deputy Clerk of Assize on the Oxford Circuit.

875. How long have you held those offices?—I have been about nineteen years at the Central Criminal Court, about nine years on the Oxford Circuit.

876. During that time of course you have had considerable experience in the administration of criminal justice?—I have.

877. Have you turned your attention to the appointment of public prosecutors? I have.

878. Will you be good enough to tell the Committee what your opinion is; whether such an officer is desirable or not, or whether a change in the system is desirable or not?—I think that at present there is a great evil in the system of criminal procedure. There is an absence of responsibility on the part of those who have the conduct of the early stage of the prosecution up to the time of the trial, and there is also a want of uniformity in the general practice with regard to indictable offences. I do not think that the appointment of a public prosecutor to conduct the case in court would lead to any advantage, but I think that the appointment of a district agent might be attended with considerable benefit.

879. What are the evils which you think the appointment of a district agent would tend to remove?—I think it would remove the principal evil, namely, the want of responsibility on the part of those who now conduct the prosecutions.

880. How does that operate disadvantageously in the administration of criminal justice?—It operates in a great number of ways. In what particular respect do you mean?

881. Any way in which you think the administration of criminal justice is injured by the want of a responsible person to perform the functions assigned by my Bill to the district agent?—I think first of all that a private prosecutor, where he employs his own attorney, is necessarily, more particularly in London, put to great expense; that the allowance at the Central Criminal Court, for instance, to an attorney for a prosecution is almost absurd. Beyond the allowance of 2 *l.* or 3 *l.* which he has for the brief, he very frequently has to pay to the attorney a bill of 50 *l.* or 60 *l.*

882. That you consider a great evil?—I consider that it is a great evil.

883. In the case of a poor person would it almost amount to a denial of justice?—In the case of a poor person, unless the magistrate's clerk takes up the case, or it is taken up by a speculative attorney, who may attend at the petty sessions or at the police court for that purpose, there may possibly be a failure of justice. Where it is taken up by a speculative attorney I think it is a great abuse; and where it is conducted by the magistrate's clerk I do not think it is always efficiently conducted.

884. Have you ever known scrambles by attorneys for the management of prosecutions?—I have heard of them.

885. Do you believe that such things take place?—I believe that in large towns there are a number of attorneys who attend at the police offices for the very purpose of getting up prosecutions. I was told of an instance even in London only the other day, I think at Worship-street Police Court, of an attorney who went up to a gentleman who had a prosecution on and handed him his card, and said he should be most happy to attend to the case; the gentleman had an attorney of his own, and repudiated the notion altogether. It exists, I believe, in all the police courts in London.

886. To a great extent?—I should say that there are frequently two or three persons either using their own names or those of others attending the police courts in London. I think it may arise principally from the fact that a very small sum is allowed at the Central Criminal Court, and that respectable attorneys will not undertake a prosecution if that is all that they are to receive for their trouble.

887. With regard to collusion between the prosecutors and the persons whom they accuse, do you believe that the appointment of a public prosecutor or of a district agent would tend to prevent that; do you think that frivolous and collu-

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sive prosecutions are brought?—I do not myself recollect any case where there was collusion between the prosecutor and the party charged.

888. Not of the party charged being bought off?—Excepting in cases of conspiracy and perjury at the Old Bailey; that is, not collusion between the party charged and the prosecutor before preferring the indictment, but where a prosecutor originally prefers a charge from some corrupt motive, for the purpose of ultimate compromise and benefit to himself. That has been done frequently in cases which have been mentioned by my Lord Campbell, cases of gaming-houses, brothels, perjury, and conspiracy.

889. There was a case which Lord Campbell mentioned, in which a writ of error was sought, with a view to a collusive proceeding, in which the Court refused a mandamus to the Attorney-general to allow a writ of error; are you aware of that case?—No; but I believe Mr. Straight will be able to give every information about it.

890. In your experience, if district agents were appointed, would it tend to diminish the expense of criminal prosecutions?—Certainly not; it would tend to increase the expense of criminal prosecutions, but it would be for the benefit of the public. I think, on the Oxford Circuit, and in reference most particularly to the county of Stafford, a great public benefit would be obtained. I have only knowledge with regard to that circuit. I think there are some counties on the Oxford Circuit where little or no change is desirable. There is more crime in the county of Stafford than in any other county in the circuit, and I believe almost than in any other in the country.

891. Are there not a quantity of low attorneys who make a traffic of criminal prosecutions?—There are a great number of attorneys who, I believe, attend the police offices, and get up prosecutions.

892. And you think that although the district agent would be attended with an increase of expense, the benefit to society would more than compensate for that expense?—Very much more.

893. Lord *Stanley*.] What do you consider that the exact functions of the district agent would be?—To get up the case prior to the trial; properly to investigate it; and that in cases of a serious nature, such as rape, murder, robbery, and some of those cases, he should conduct the case before the committing magistrate.

894. Mr. *Walpole*.] As the attorney for the prosecution?—Yes; I do not at all say that he should be a barrister; I rather repudiate the notion; I say a practical man well accustomed to the working and the practice of the criminal law.

895. Lord *Stanley*.] Who is to conduct the trial before the court of justice, according to your proposal?—I think that the district agent should be totally unfettered in his choice of counsel, that he should choose his own counsel, because he would be responsible to the Crown for the proper and efficient discharge of his duties.

896. *Chairman*.] Then I do not undestand you to agree in my opinion, that not only a district agent should be appointed, but that there should be a counsel?—No.

897. You think that a district agent should be appointed, and that that district agent should have his choice of counsel unfettered?—Entirely; because I think the practice in the Mint system is rather bad. In the cases prosecuted by the Mint, up to the time of trial, I do not think they could be much better managed; but in court it has been a matter of observation not only of myself, but of others, that those cases are not ordinarily so well conducted as other cases which come from private instruction. I do not know how that arises.

898. Would you not give immense patronage to the district agent in that way?—I do not think it is patronage, but it is employing the best persons, who I think should be employed.

899. If there were a district agent, one person would have a general superintendence over a vast number of prosecutions, whereas now a different attorney acts in almost every prosecution, and receives his expenses; do not you think that in that respect the appointment of a district agent would very much diminish the expense?—I think that after it had been carried on for a year or two, the expense would equalise itself; you would diminish the number of prosecutions, because no doubt a great number of prosecutions, if there were a public prosecutor, would not be instituted; cases of a trifling character, and cases where

James Hemp, Esq.

19 June 1855.

upon committal the evidence was not sufficient; the large proportion of acquittals in the county of Stafford rather shows that more prosecutions are sent to the assizes than should be sent.

900. In charges of manslaughter upon coroners' inquests, are there not occasionally trifling prosecutions?—Yes, but that cannot be very easily obviated, because you have the finding of the coroner's jury, and the prisoner must be brought to trial.

901. Have you ever known cases where the coroner has been the attorney who has brought the prosecution to the assizes?—That cannot be done now, because he is prevented by Act of Parliament.

902. How long has it not been the case?—I cannot say. I have known a case of manslaughter committed by one coroner and prosecuted by another, and in some cases, I believe, the coroner's partner conducts the prosecution; so that, virtually, it is an evasion of the Act of Parliament.

903. Lord *Stanley*.] You say that the plan suggested would lessen the number of prosecutions, but I do not understand you to propose to take away the right of the private party to prosecute?—Not by any means; but as to costs it would be subject to an order of the court afterwards.

904. *Chairman*.] The party would bear his own expense?—Unless the court thought afterwards that it should be borne by the public.

905. He would do it at his own risk?—Yes.

906. You have had an opportunity of observing the practice of various judges; do not judges hold different views as to the allowance of the expense of prosecutions?—They differ very much, as all men do.

907. One judge will make a larger allowance than another?—In some cases, certainly.

908. Does not that create a certain amount of risk on the part of the attorney who advances a considerable sum of money to carry on a prosecution?—I do not think, generally speaking, an attorney will incur any risk. I do not think an attorney, generally, will expend a larger sum than that which he well knows will be repaid.

909. Suppose the interests of justice require it, as in the case which I have quoted with regard to an attorney who was 40 *l.* out of pocket?—I should very much like to hear the answer to that before I give an opinion upon it; because I think very likely the clerk of assize, or the gentleman who taxed the costs, might have had a very good reason for disallowing those costs.

910. Do you think that the conviction of a criminal should be dependent upon the zeal of an attorney in advancing the money for getting up the case?—Certainly not; I do not think it is. There are some exceptional cases of course. In one case of murder in the county of Stafford, a gentleman was called upon by the magistrates to conduct the case. I do not know that he was out of pocket, but he had to expend a large sum upon the occasion.

911. It might not have been in his power to do so?—No; but I suppose that those who instructed him would have furnished him with the means; still I do not think it should be open to that.

912–13. In your opinion, it is an evil that the administration of justice should in any way depend upon the circumstance of an attorney advancing money to get up the case against the prisoner?—I think it is a great evil that there is not some responsible officer; but I should not put it as depending upon the attorney advancing money; I think that, generally speaking, without reference to any particular class of cases, it is a great evil that there should be no one responsible to the state for the proper conduct of all criminal cases.

914. Mr. *W. Ewart*.] I understand that you would limit your prosecuting agent to prosecuting the case, and that he should not originate the case as in Scotland, where the case is originated by the procurator-fiscal?—I speak of his conducting the case after receiving the information which he has from the police of the county.

915. You do not propose that the district shall have the power of originating the case, as in Scotland or in France? In Scotland the procurator-fiscal is the party who does it, and there is a corresponding agent in France. You would leave it to the individual to originate the prosecution, and to the district agent to conduct it; but you do not give to any Government officer authority to originate it?—No; he should have a statement made to him of the offence. I do not exactly understand what you mean by the initiation of the prosecution.

916. The

916. The taking up of the case?—First of all the offence is committed; then information that the offence has been committed is conveyed to the police.

917. By the law in Scotland and in France, that is not left to the contingency of either the individual or the police taking it up, but the Government officer is bound to initiate it himself?—I take it that that would be so, but I do not think that in this country any crime is unnoticed where it comes to the knowledge of the police; they immediately institute inquiries.

918. Have there been any objections made to its being done by the police?—Not well-founded objections, I think.

919. Then you do not agree with those witnesses who have stated that the police have behaved ill?—I am not aware of what evidence has been given; I do not think, as a general rule, the police take up cases which should not be taken up; and it would be subject to the discretion of the district agent afterwards whether or not he should proceed with the charge.

920. *Chairman.*] Have you turned your attention to the consideration whether it would be desirable to allow prisoners' witnesses to be summoned at the expense of the public?—I think it would be well that the judge should have power either to allow or to disallow the expenses of their witnesses.

921. It was adopted by Mr. Markland, at the suggestion of Mr. Miles, that if the magistrates bound over witnesses, their expenses should in all cases be allowed; and that in other cases, if the judge thought it proper, the expenses of witnesses should be allowed?—I think that in all cases where witnesses are called to facts on behalf of the prisoner, the judge should have it in his power to allow their expenses, whether bound over or not. I think that the judge should always have a discretion as to allowing any expenses.

922. Mr. *Walpole.*] You would leave the judge who tried the case to judge of the propriety of allowing or disallowing the expenses of the trial?—Quite so.

923. Would you do that with reference to the expenses incurred by the district agent?—I think the present system should be continued with regard to the expenses; that they should be taxed, as they now are, either by the clerk of the peace at the sessions or by the clerk of assize at the assizes.

924. As I understand you, the great advantage which you think would arise from the appointment of a district is, that it would do away with that want of responsibility and uniformity which now exists in prosecutions?—Yes.

925. As I understand you, that want of responsibility and uniformity is not felt in the same degree with reference to the barrister who conducts the prosecution?—I do not think it is.

926. Consequently so much of this Bill as relates to the appointment of district agents you approve of, in order get rid of those two objections?—Yes.

927. And so much of this Bill as relates to the appointment of barristers as public prosecutors you think unnecessary, because those two objections do not apply to that part of the prosecution?—I do not think they apply.

928. Mr. *Miles.*] You likewise think that the preliminary part is now sufficiently well conducted up to committal?—In what cases?

929. Cases of felony, generally speaking?—I cannot say that now.

930. Would you then adopt the first part of the Bill, namely, as to agents being appointed by the magistrates? The clause allows the magistrates to appoint the clerks of petty sessions in a subordinate capacity, to manage the cases?—I do not see that that would be necessary, if you had a regular district agent.

931. *Chairman.*] The only question is, whether the district agent could attend to every case?—He could not; but I think, first of all, that if the clerks of the magistrates were placed upon a salary, there would be no objection to their conducting cases of a simple nature. I should not propose that the district agents should conduct all cases before the magistrates; merely those cases which were of a difficult or serious description.

932. Mr. *Miles.*] Then if I understand you, in a small county there would be about one district agent required, and in large counties two, or perhaps three?—Yes.

933. They should be only consulted when cases of difficulty arose, and they should be then consulted by the magistrates' clerks, who should advise with the magistrates?—I think that might be so.

934. *Chairman.*] With regard to counties, we should propose to divide the country into districts; it would be quite impossible to proceed by counties, as the

James Hemp, Esq.

19 June 1855.

population varies so very greatly?—I think the proportion of very serious cases in all counties is somewhat small compared to the aggregate number, and that therefore you would not require a great number of district agents in any one county.

935. You might have local districts; you are not bound by the county?—Not at all.

936. Does it appear to you that there would be any objection to the clause enabling the magistrates to appoint their own clerk at petty sessions, who should not be paid by fees, but by a salary, as a sort of subordinate district agent, to get up the evidence; and, in case of need, to apply to the district agent?—I see no objection to that.

937. Mr. *Miles.*] Do you think there would be any probability, if they were paid by salary, that they would not be so active in getting up cases as now?—If you paid the magistrates' clerks by salary, I think it would reduce the number of prosecutions. I think, in very many instances, on account of their being paid by fees, a greater number of persons are committed than would otherwise be sent to trial.

938. And that would be done without any danger to the public interests?—I think so.

939. I understand that your observations as to the arrangement proposed by this Bill, simply apply to the metropolis, and to the county of Stafford; not so much to the country districts?—Most especially to Staffordshire; but I think in other counties there should be some officer to conduct prosecutions of a serious nature.

940. Then you would recommend it to be generally adopted?—I think there ought to be one general system throughout the country.

941. *Chairman.*] But the abuses in Staffordshire are serious?—Very serious; and I think that Captain Hatton, the chief constable of police at Stafford, could give the Committee valuable information with regard to the want of some such officer.

942. Mr. *Miles.*] Would you prefer dividing the duties of these officers into counties, or into districts?—I have not considered that.

943. *Chairman.*] I am afraid you differ with me as to barristers?—Yes, and I will give my reason; I think, as to the Mint prosecutions, they are ordinarily not better, if so well conducted, as other prosecutions.

944. Have you turned your attention at all to the Irish or the Scotch system?—Not at all; I think you destroy altogether the independence of the bar; for instance, with a public prosecutor in the borough of Leeds you would almost leave prisoners without counsel, for no gentleman would go from London to Leeds upon the mere chance of getting a guinea to defend a prisoner.

945. Mr. *Walpole.*] In your view of the case, the same reason does not apply to the appointment of a barrister to act as public prosecutor, as to the appointment of a district agent to get up the evidence?—I think they are totally distinct.

946. *Chairman.*] You spoke of the independence of the bar; are you aware whether it has had any serious effect upon the independence of the Irish bar, or upon the independence of the Scotch bar?—From what I have heard, I think that the system works badly in Ireland.

947. You think that it is unfavourable to the independence of the Irish bar?—I have never deeply considered the question as regards Ireland; but I must confess that from time to time I have noticed cases which could not be called satisfactory.

948. Are you aware that this is the only civilised country where a public prosecutor, of the nature which I suggest, is not appointed?—I am not.

Mr. *George Leeman*, called in; and Examined.

Mr. *G. Leeman.*

949. *Chairman.*] WILL you state what you are?—I am Clerk of the Peace for the East Riding of Yorkshire.

950. How long have you held that office?—About 12 years.

951. During the time you have held that office have you had opportunities of seeing the administration of criminal justice?—I have, and for many years previously.

952. In

952. In what occupation were you before you entered your present office?—A solicitor, practising in the city of York, and I do so still.

953. Have you turned your attention to the subject of public prosecutors?—I have.

954. Will you be good enough to tell us what is your view upon the matter?—My opinion is decidedly against this Bill, with the exception of two clauses of it.

955. Mr. *Walpole.*] Which are the two clauses?—I think a modification of clause 10, and the last clause in the Bill, would effect the whole purpose which I apprehend is the object of the parties bringing in the Bill. I may state generally that, so far as the county of York goes, I am acquainted, not only with the East Riding, but with the administration of the law in the North and West Ridings, and also at our own assizes for Yorkshire, which I need not say is the largest county in England. I think that the system of a public prosecutor would be so very inconvenient and unworkable in country districts, that though I have given considerable attention to it, I have never been able to bring my mind to any mode in which it could be practically worked out. This Bill, in the first place, by clause 8, appointing one barrister to conduct all prosecutions at sessions, destroys the nursery for the English Bar, which I take the Court of Quarter Sessions to be. I heard the evidence given by Lord Campbell in that respect, and I perfectly agree with his Lordship in the views which he expressed, so far as that goes. My opinion is, that if authority were given under clause 10 to the justices in their several petty sessional divisions to require their own clerk to see to the due prosecution of all cases sent to the quarter sessions, the administration of justice would, in all the agricultural districts of the north, I feel quite assured, be secured by that clause. I agree in the desirability of preventing magistrates' clerks being paid by fees. I think it is very desirable to avoid the payment of any public officer by fees, and not to give him an interest in the prosecutions which are brought before magistrates; but I think if power were given to the justices in the several petty sessions to authorise their clerks to conduct prosecutions at the quarter sessions, and if they were paid by salary, then in most of the agricultural counties of England all the objects would be attained.

956. Would you not retain clause 11, which relates to the appointment of the district agents?—No, I see no necessity for the appointment of district agents. In most instances, in the north of England, the gentlemen who are the clerks to the justices are the principal solicitors of the particular towns in which the petty sessions are held. At all events, in the East Riding I may say that they are the most respectable of the professional men of the riding. I think those gentlemen might be very safely entrusted with the prosecution of all the cases which arise before the justices, and then I do not see any necessity, I confess, for the district agents. I may say, with regard to the latter clause of the Bill, which gives authority to the public prosecutor to issue subpœnas gratis for the purpose of compelling the attendance of witnesses for prisoners, that that again, I think, may be so modified as to entrust that authority to the clerk to the magistrates, who could do it just as well. With reference to a question which has been put to some of the witnesses, as to vesting discretion in the judge who tries the case to grant expenses to witnesses for prisoners, I think that is highly reasonable and proper; and I am quite sure that I have very often seen cases where there has been a failure of justice, because poor persons have not been in a condition to bring witnesses. I think it will require the exercise of great discretion on the part of the chairman at quarter sessions, or the judge at assizes, but that may be assumed; and I think if you give them discretionary power either to allow the expenses or to refuse them, all will be done which seems to have been the object of some questions which were put. I also heard the evidence of Mr. Markland, from Leeds, and I do not at all agree in what he said as to what would be the effect at the county assizes. If I understood him, the effect of the appointment under this Bill of one public prosecutor would be to prevent the necessity for the attendance at the assizes of more than one solicitor; that could not be so in a large county, as will be seen at once. Take towns like Sheffield, from which you sometimes probably have half a dozen prosecutions at one assizes; that is 50 miles away from other parts of the county; the same is the case with Huddersfield, Wakefield, and Bradford. It generally happens that these prosecutions from the large towns are conducted by one or two solicitors of those towns, and I do not see how you could prevent the necessity for the attendance of those solicitors who have got up the particular cases in the particular towns.

Mr. G. Leeman.

19 June 1855.

I take it that it would be the same at the court of quarter sessions. For instance, in the East Riding, which from one end to the other is a distance of above 50 miles, it cannot be expected that one solicitor alone should be able to attend at the quarter sessions, and conduct the prosecutions for the whole of that riding.

957. Mr. *Miles.*] Do you think that any difficulties occasionally occur at the grand juries from not having a person immediately in the room whom they may consult if they think it necessary?—Yes. I think it is very desirable indeed that there should be the appointment of such a person to whom the grand jury could refer.

958. Whom would you indicate as the proper person?—I am not sure that the clerk of the peace, or the clerk of arraigns, or their respective deputies, might not be appointed.

959. You would recommend that they should have the power of consulting the clerk of the peace whenever they required?—Yes. I have very often been called in, in my own riding, by the grand jury when difficulties have arisen. I feel that if the clauses in this Bill were passed, a large expense would be unavoidably incurred, which I should look upon as altogether unnecessary. For instance, I observe that by one clause, it is proposed to appoint an assistant prosecutor, who is to be a barrister, at an expense of 300*l.* in each district; all that would be cost, I feel quite assured, of an unnecessary character.

960. Mr. *Philipps.*] Do you think any abuses arise from the practice of getting a bill preferred at the grand jury where magistrates have not committed in cases of assault?—I think there is one improvement in the law, which is very necessary, and that is to prevent any bill being preferred to the grand jury in which the prosecutor has not first gone before a magistrate. I think that is a defect, certainly. I have seen great abuses arise from it. I believe, however, that by far the greater number of those cases are to be found in this metropolis. I think also, with regard to what fell from my Lord Campbell as to prosecutions in cases of gaming-houses, and of perjury and conspiracies, those are to be found to a far greater extent in London than we have them in the country. In cases of perjury his Lordship suggested that it should be necessary to have the fiat of the Attorney-general, which would be a proper check against prosecutions for mere extortion in cases arising here, undoubtedly; but we have had a great number of cases of perjury in the country since the County Court Acts came into operation, in which no such fiat could be conveniently applied for. Those cases sometimes arise from the commitment of the county court judges themselves, who have themselves heard the evidence, or by magistrates or judges before whom perjured testimony having been given, they direct the prosecutions.

Robert Marshall Straight, Esq., called in; and further Examined.

R. M. Straight, Esq.

Witness.—I WISH to be permitted to make one addition to the evidence which I gave at the last meeting of this Committee. I referred to several stages of the prosecution, but I omitted to mention one and perhaps the most important, namely, that of trial; I wish to bear my testimony to the efficiency with which cases are now prosecuted upon trial by the counsel retained in the case, and I am fortified in that by what Lord Campbell has said to-day. I am also desirous of explaining to the Committee what is the amount of the allowances made in respect of counsel's fees, the duties of whom have been described by Lord Campbell to-day as having been performed to his satisfaction. I find that at the Lent assizes in 1855, upon the Home Circuit, 283 prisoners were committed for trial. My clerk has ascertained for me what was the amount of fees paid to counsel in respect of those prisoners. It is a rough calculation, but it is substantially correct; it amounts to 397*l.* only.* I was also desirous of ascertaining what the allowances to attorneys were; those amounted to 473*l.* I ought to state, that I quite

* The Witness afterwards transmitted to the Committee the following Return:

HOME CIRCUIT, LENT, 1855.

Number of prisoners	283
Number of prosecutions	265
Number of prosecutions in which professional assistance was rendered	216
Total amount of allowance to attorneys	£.461
Total amount of allowance to counsel	£.416

Marshall Straight.

quite concur with Mr. Hemp, that occasionally, although solicitors are not called upon to pay sums of money out of pocket, as the question was put to me upon the last occasion, they do not make a profit out of prosecutions by being allowed such full costs as in some cases they ought to have. I think this happens only in exceptional cases. Upon the last occasion I stated that I thought there were some defects in the preliminary stages of the prosecution. At that time I had not seen Mr. Phillimore's Bill; I did not understand what the district agent was, or what were to be his functions; I have now seen the Bill, and I think the appointment of district agents with the duties defined by the Bill, would conduce to the more effective administration of justice, and to obviate the defects referred to. I, however, think it has escaped the notice of this Committee that it will be highly inconvenient if these district agents are appointed for too large districts. If a district agent is appointed for the whole of a county, it will be inconvenient and expensive; for it must be recollected that the witnesses must be seen by the district agent before they go to court; and, if he performs his duty, he will examine those witnesses to see whether what they state is true.

961. *Chairman.*] The view of the Bill is not to take a county, but to make districts?—In that I perfectly concur, but they must not be too large. In looking at sections 3 and 4 of the Bill, I think that a public prosecutor, to perform the functions therein mentioned, but not to appear in court (because I am opposed to any interference with the bar, as it at present exists), would be an advantage in the administration of justice. I was also asked as to the propriety of the public prosecutor having a veto upon prosecutions. I instanced certain cases in which I thought that the old constitutional way of submitting the case to the grand jury ought still to be preserved. There are two cases which I omitted to mention, which are within my own experience, namely, one which was for perjury before an Election Committee of the House of Commons, in which, for obvious reasons, no officer appointed by the Crown should have any veto at all; the second was an indictment which came within my own personal knowledge, for bribery and conspiracy to bribe at an election for a Member of the House of Commons. In such cases I think it is obvious no officer of the Crown ought to have any right to prevent or stifle inquiry by a grand jury.

962. Mr. *Miles.*] Then, as I understand you, you are for the appointment of district agents, and not to go further?—Certainly, subject to the control of some superior officer (who is Mr. Phillimore's public prosecutor) to whom cases in the preliminary stages should be submitted, in order that he may direct whether the district agent should proceed with them or not. If the district agent does not proceed under the direction of the public prosecutor, I think that the private prosecutor, if he proceeds, ought to do so at his own risk. If the case be properly instituted and properly prosecuted, the court would probably allow the expenses; if it should not be properly instituted and properly conducted, he ought not to have his expenses.

963. So that the district agents, supposing the Bill adopted, would be numerous throughout the country?—I think they must necessarily be so.

964. But you would have, as I conceive, one person or two persons in London who should be referred to in case any difficulty arose, and who should be called the public prosecutor?—Yes; and I entertain the conviction that, unless these district agents are appointed for small districts, such as petty sessional divisions, the expenses will be greatly increased, and great inconvenience will arise by reason of the inaccessibility of the district agent to the various witnesses. If he takes upon himself the responsibility of conducting the prosecution, he ought to be able to see the witnesses, to examine them, to ascertain that they are not likely to be shaken in their evidence, that they are the witnesses of truth and of good credit, and that they are not mistaken; because, if he cannot rely upon those witnesses, he ought to seek further evidence. This entails an extra attendance of the witnesses, and increased costs for loss of time and travelling. The nearer the witnesses to the district agent the less cost.

965. Mr. W. *Ewart.*] And therefore there should be a subordinate agent?—My views are directed to a district agent being appointed for every petty sessional division.

966. *Chairman.*] You think that the public prosecutor should not be allowed to appear in court to conduct the prosecution?—I do not say that, but I do not think it would be an improvement upon the existing system, or more economical.

Jovis, 21° die Junii, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. Napier.
Mr. Attorney-General.	Mr. Philipps.
Mr. Watson.	Lord Stanley.
Mr. William Ewart.	Mr. Miles.

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

Henry Leigh Trafford, Esq., called in; and Examined.

H. L. Trafford, Esq.

21 June 1855.

967. *Chairman.*] WILL you state what you are?—A Barrister. I was called in 1834. In 1845 I was appointed stipendiary magistrate for the division of Manchester and the borough of Salford.

968. What population does that comprise?—I cannot speak of that accurately; I should think between 100,000 and 150,000 inhabitants. It is formed of the populous villages round the city of Manchester.

969. Are there any other stipendiary magistrates besides yourself, or does it all devolve upon you?—There is a stipendiary magistrate for the city of Manchester.

970. Whose jurisdiction is concurrent with yours?—It is concurrent, but I do not act for the city of Manchester; nor does he act for the county, though he is qualified.

971. Will you be kind enough to state whether you have turned your attention to the subject of the appointment of a public prosecutor?—I have. When I was first appointed at Manchester, the prosecutions arising in the county, as distinct from the borough of Salford, were open to any attorney; and those which were not claimed from the magistrates' clerk by the prosecutor's attorney were handed over to a gentleman to conduct.

972. To anybody?—To one person. I found great irregularities and carelessness in conducting those prosecutions at the sessions.

973. Failures of justice?—In one or two cases they were so carelessly attended to that the chairman complained to me about them; the attorney to whom the prosecutions not claimed were handed over turned out to be a very improper person.

974. A disreputable person?—A disreputable person. In one case of murder he received costs for the various witnesses to the amount, I think, of nearly 70*l.*, which he failed to pay over to the various witnesses entitled to it.

975. He embezzled the money?—He embezzled the money. In consequence of that, I directed the constables to hand over all prosecutions not claimed by the prosecutors' attorneys to one gentleman; and since that period, I believe he has conducted every prosecution which has been sent to either sessions or assizes from that court.

976. Was the consequence of that alteration an improvement in the administration of justice, in your opinion?—I consider a very material one.

977. With regard to expense, have you turned your attention to the subject of a public prosecutor, as concerns expense?—Am I to understand by a "public prosecutor" a gentleman to conduct the cases in court?

978. We will take the district agent first?—I do not consider a district agent necessary. I consider that it would be very advisable that the magistrates in petty sessions assembled should have power to appoint a gentleman to conduct prosecutions arising within the petty sessional division.

979. Have you looked at the clauses of the Bill which provide for that; and if so, would you suggest any alteration?—The clause in the Bill, of which I most approved (if I may use the expression) is the 10th.

980. That is the clause which gives the justices of petty sessions power to appoint such an officer as you have described?—Yes.

981. You think that that would answer all the purposes?—I do.

982. With regard to the appointment of a prosecutor to conduct cases in court, what

what is your opinion upon that subject?—That it would be unadvisable. I have seen the system at work in the county of Chester, when I was young, before I was called to the Bar. I remember associating a great deal with the barristers and the magistrates at that time, and I have frequently heard the system which was then in use at Chester very much condemned.

983. Was the gentleman who held that office a person of ability?—I am not able to answer that question.

984. Were there complaints that he was not?—There were complaints.

985. That he was unequal to his functions?—I do not say that he was incompetent.

986. Unequal to his functions?—No, I will not say that; but I say there was a little carelessness, a want of time to give proper attention to the cases; a want of emulation, knowing that he must have a brief in every case.

987. Then in consequence of those causes you consider that the business was not so properly done as it might have been?—I heard complaints. I am not able to form an opinion as to their correctness.

988. Was it not the fact with regard to that particular district that he was employed in other places on some occasions, in order that the prosecution might be conducted by some one else?—You are perfectly right. I remember one case only in which that took place.

989. You would hardly take that as a standard by which to estimate the propriety of appointing a public prosecutor?—It is the only instance which has come to my knowledge.

990. That is the instance upon which you form your opinion?—Yes.

991. With regard to frivolous prosecutions, is it your opinion that many frivolous prosecutions are brought in consequence of the want of some responsible person?—No. Many cases that appear frivolous are sent to the sessions in consequence of magistrates entertaining an opinion, in which I believe they are correct, that wherever a case of felony is proved, they are bound by law to send it to the sessions.

992. Then you do not think that low attorneys bring frivolous prosecutions?—I do not.

993. That was not one of the evils which you endeavoured to remedy when you began to act?—No, it was the management of the prosecution.

994. Have you ever witnessed a scramble among attorneys for the management of prosecutions?—I have.

995. Do you consider that that contributes to the administration of justice?—I do not, or I should not have made the alteration which I did.

996. Then your reason for making the alteration was to prevent the scramble of attorneys to manage the prosecutions?—To obtain the assistance of an efficient and respectable attorney.

997. Which was not the case before?—It was not; after the cases left the magistrates' clerks' hands, nobody appeared to be answerable for them.

998. We have been told by a gentleman of considerable experience at the Old Bailey, that in London a vast number of prosecutions are left to the management of the police; was that the case at all at Manchester?—No; because ever since I knew the Manchester sessions, attorneys have always been employed to conduct prosecutions.

999. Did it not fall into the hands of the police to get up the case at all at Manchester?—I will state how a case is presented to the magistrates. The prisoner is apprehended; the constables then state the evidence in court, and produce all the witnesses who are examined before the different magistrates. In case of committal, the prosecutions are handed over to the magistrate's clerk in one court in which I act; he conducts the prosecutions either at the sessions or assizes, and has always done so. In the other court the depositions are handed over to the prosecuting attorney, and he then is answerable for the management of the case. Up to that period the constable who apprehends the prisoner is directed to procure all the evidence upon which the charge is supported.

1000. That is to say, the police constable is directed to procure all the evidence?—Yes.

1001. Is the choice of the attorney sometimes in the selection of that constable?—Not in my division.

1002. But in any division with which you are acquainted, is it dependent at

H. L. Trafford, Esq.

21 June 1855.

all upon the discretion of the policeman what attorney is employed?—Certainly not; not in the court over which I have jurisdiction.

1003. But in any within your knowledge?—I think not at all.

1004. You do not think that it ever happens that the policeman has the power of employing what attorney he thinks proper?—I have known cases where attorneys have given policemen money to introduce them to the prosecutor, which is tantamount to the same thing, but in the Lancashire police force a man would be immediately dismissed who was ever known to do such a thing.

1005. But it is possible that such a practice might exist some time before it was detected, is it not?—It is impossible always to detect roguery; it may go on for some time.

1006. You consider that to be roguery?—I do.

1007. And roguery in the administration of criminal justice?—I do.

1008. Mr. *Miles.*] And it is invariably punished by the authorities when discovered?—By dismissal from the force; I have known an inspector dismissed from the force for that very thing.

1009. *Chairman.*] Whenever it is discovered?—Yes.

1010. You have no doubt that such a thing has existed before it was discovered?—One inspector was dismissed for it, and therefore I presume that existed.

1011. With regard to the expense, have you looked at this Bill?—I have.

1012. Confining yourself to the district agent, do you think that such appointments as those of the district agents would add materially to the expense of criminal proceedings?—I do.

1013. Then the only point which you recommend is the clause relating to justices at petty sessions?—It is.

1014. Lord *Stanley.*] Is it within your knowledge that the costs allowed for prosecutions vary greatly in amount in different counties?—It is.

1015. Do you conceive that it would be an improvement if a uniform scale were fixed?—That is a very difficult question, because the allowance to witnesses must vary so much with the different counties in which they reside, the different districts from which they come, and the different trades and so on which they follow; it is impossible to lay down a satisfactory scale to be adopted in all counties; an agricultural labourer attending a prosecution would be well satisfied with his 2*s.* a day; a mechanic would think himself badly paid with 4*s.* a day.

1016. Nevertheless it is stated in some papers on this subject, which have been laid before Parliament, that the expenses of prosecutions are generally heavier in the counties than in the borough; is that within your knowledge?—Yes, it is.

1017. What reason do you assign for that?—The witnesses have so much further to travel; they are at so much greater expense altogether in attending the various courts which they attend.

1018. It is also stated in evidence that there is a considerable difficulty in enforcing the recognizances when parties are unwilling to prosecute; is it your opinion that that is the case, and that the law requires amendment in that respect?—It does; there is a difficulty in enforcing all recognizances, either for one purpose or the other, and I think if an easier mode of enforcing recognizances was adopted it would be advantageous to the country. It is necessary before a recognizance can be estreated, that it should be returned from the court which orders it to be estreated to the Exchequer in London; the Exchequer in London then sends down process to the sheriff's officer, who then levies the estreat. The parties have power to traverse that estreat.

1019. Then may it not be from the complexity and inconvenience of these forms, as much as from the want of a public prosecutor, that failure of justice frequently takes place?—I do not consider that failure of justice does take place, except in the difficulty in enforcing recognizances, which I believe the appointment of a public prosecutor would not affect. If a summary jurisdiction were given to the quarter sessions immediately to enforce recognizances, I think it would be sufficient.

1020. Do you think that it is desirable that there should be no power in the hands of the party aggrieved to overlook an offence committed against him?—I think it would be very undesirable in cases of felony.

1021. I am not aware that we are dealing exclusively with cases of felony?—In misdemeanors, parties have power to arrange them.

1022. *Chairman.*]

1022. *Chairman.*] Some misdemeanors?—Some misdemeanors. They have power to settle out of court cases of assault, and various cases. You have not power to compel a prosecutor to come forward in a case of assault. You have in cases of felony, because the offence is against the public and not against the individual.

1023. If a citizen is improperly assaulted, is not that an offence against the public?—It is not so considered in the law.

1024. Lord *Stanley.*] I see it stated by one witness in answers contained in the 8th Report on Criminal Law, that if prosecutors were not bound over, 19 in 20 cases would be compromised; that is to say, that there is a general reluctance to prosecute, and that the parties aggrieved are only induced to do so by the legal compulsion upon them; is that your opinion?—My opinion is that a great many cases would be compromised by the friends and relations of the prisoner; those compromises are prevented by the recognizances being entered into.

1025. Mr. *Watson.*] The compromise is by paying a large sum of money, I suppose?—Yes.

1026. In which the prosecutor, being a poor person, a large sum of money induces him to forego the prosecution?—Yes. Frequently cases occur before me where I am compelled to summon the prosecutor to appear, because the property of which he has been robbed is returned to him, and he wishes to forego the trouble; this is the case most frequently in the cases of old and repeatedly convicted offenders.

1027. Lord *Stanley.*] There is no power, I think, given to a police magistrate to order a counsel for the prosecution?—No.

1028. Do you think it desirable that such a power should be given?—Do you mean to attend before him on the examination before commitment?

1029. To give a brief to counsel to conduct the prosecution?—In Lancashire it is invariably done in all prosecutions for felony and misdemeanors.

1030. Mr. *Watson.*] Is it not so all round the Northern circuit, both at assizes and sessions, that there is never any case of prosecution without a counsel for the prosecution?—I think there never is.

1031. Lord *Stanley.*] Then the practice varies in different parts of the country?—I am not conversant with the practice on the various circuits.

1032. Mr. *Napier.*] Do you think that the previous inquiries, before cases go to trial, are sufficiently entered upon?—I think it would be a great assistance to the magistrates, in cases of importance, had they the power which would be given by section 10, of directing an attorney to appear before them to conduct the cases, in cases of importance, serious cases.

1033. To have all the preliminary inquiries fully made?—To get up the evidence, and lay it before the magistrates in proper form, to marshal it.

1034. Upon what principle do you distribute the cases between the sessions and the assizes?—Serious cases and cases defined by the Act of Parliament all go to the assizes; cases of stabbing, wounding with intent to kill or maim, murder, manslaughter, and burglary.

1035. Have you been in the habit of attending at the assizes?—I have, for 10 years.

1036. From what you have observed there, do you think that any serious cases have failed from the want of proper preparation and proper conduct at the assizes?—I cannot call to my recollection any one case.

1037. Do you confine your remedy simply to that assistance to the magistrates?—I do.

1038. You think that that would effectuate every object?—I do. I remember investigating a long case of murder by poison, which afterwards took one or two days to try at the assizes, and I had great difficulty in getting the evidence properly shaped to lay before the magistrates; little facts kept turning up, in the course of the examination, day by day. The witnesses were brought up; they were not examined before they came into court by any person; it was said that they could speak to certain facts; they were brought into court; then those facts, perhaps, were taken in the middle of the case, when, in point of time, they ought to have been detailed at the end; and a great deal of difficulty and expense of witnesses attending before the magistrates was incurred, in consequence of not knowing how each little portion of the evidence would dovetail into the others. Had it been properly investigated by some competent gentleman, that would not have been so.

H. L. Trafford, Esq.

21 June 1855.

1039. Would you propose that the person employed by the magistrates should follow the case afterwards into the court of assize?—I think it would be advisable.

1040. And that he should be a local person?—Yes, and appointed by the magistrates in petty sessions; that he should have a salary for conducting the prosecutions arising within the petty sessional division for which he was appointed.

1041. Would you allow him, when he came afterwards to the assizes, to choose his own counsel?—Certainly. I think if one barrister alone was employed, it would diminish the strength of the Bar very much indeed; and I do not think one barrister would conduct every prosecution at the assizes efficiently, he would not have time to get up his briefs; and I dare say an old acquaintance of mine, Mr. Watson, would concur with me in the opinion that it is impossible to go from case to case and keep each distinct, and the minute circumstances on which a great many cases depend, in his mind.

1042. Mr. *Philipps.*] In one of your courts you say the prosecutions are entrusted to one gentleman?—To the magistrate's clerk for the borough.

1043. And in the other court it is different?—They are there entrusted to an attorney unconnected by office with the court; to an attorney selected by the presiding magistrates.

1044. Have you observed any difference in the successful mode of conducting them in the two courts?—I have not.

1045. Mr. *Miles.*] Then am I to understand you that the prosecutions in both courts are equally well conducted, though conducted on a different principle?—I think so; they are conducted by different gentlemen.

1046. And upon different principles?—Yes, as far as the selection of the attorney goes.

1047. In the one case the magistrate's clerk conducting the prosecution, and, in the other case, it being left to any person whom the individual may choose to conduct his own prosecution?—It has never been done so. The attorney selected by the court has always since his selection conducted the cases, though any gentleman may, if he chooses, claim to employ his own attorney; that has never happened.

1048. Mr. *Watson.*] You were asked a question as to the cases which go to the sessions and those which go to the assizes; is not that now regulated by Sir James Graham's Act?—In a great measure.

1049. Mr. *Miles.*] Will you look at the 10th clause of the Bill. It states that "it shall be lawful for the majority of the justices, at each petty sessions, to appoint an attorney of law, of not less than three years' standing, to act either separately or, in cases of importance, in concert with the district agent hereinafter mentioned." From the knowledge which you have of the magistrates' clerks, generally speaking the petty sessional clerks, do you think that they would be very proper persons to employ in that way, or would you employ a second person; they themselves, I believe, invariably being attorneys, and attorneys of good standing, would you employ a second attorney to supervise the depositions taken by the magistrate's clerk?—Not except in cases of great difficulty and great length. I would say that in important cases I would employ a person independent of the magistrate's clerk to discover, collect, and arrange the evidence to be laid before the magistrates; that is to say, I would employ a gentleman as assistant to the magistrate's clerk, the magistrate's clerk being employed in taking down the evidence as it is given, and the other gentleman in examining the witnesses.

1050. Have you at all looked to the enormous expense which would take place upon an additional attorney-at-law being named for all the different petty sessional divisions in England to assist in that manner?—I do not think that the additional expense would amount to the fees payable to the attorneys at the various quarter sessions for conducting the prosecutions at sessions and assizes.

1051. Any gentleman who may be so appointed must always hold himself in readiness to attend, when ordered, any petty sessions whatever held in the country, must he not?—There seems to be a strong feeling in the House of Commons against magistrates' clerks conducting prosecutions. I would appoint a gentleman to conduct the prosecutions at the sessions and assizes for each petty sessional division. I would pay him a salary, and in cases of importance I would call upon that gentleman to marshal the evidence before the magistrates.

1052. In

1052. In a county having 18 petty sessional divisions, how many gentlemen who were attorneys-at-law would you appoint to act in concert with the magistrates' clerks of the different petty sessional divisions?—I would appoint one gentleman to conduct the prosecutions out of each petty sessional division.

1053. And he should not be the magistrates' clerk?—I hold the opinion that the magistrates' clerks are very proper persons to conduct prosecutions; my own opinion is, that the magistrate's clerk is perfectly competent and able to conduct all prosecutions, and that he would do it very satisfactorily in the agricultural counties.

1054. Mr. *Watson.*] I suppose you would put a proviso upon that, that he must be paid by a salary?—Yes, to be fixed by the magistrates either in quarter sessions or in petty sessions.

1055. Mr. *W. Ewart.*] But you think that in serious cases there should be a prosecutor specially appointed?—Yes, to marshal the evidence before the magistrates.

1056. Mr. *Miles.*] Barring this one clause, do you object to the whole Bill as it stands?—There is another clause which I think very beneficial, namely the 18th, allowing the prisoner's witnesses' costs.

1057. Have you been present here during two or three examinations?—On Tuesday I was present the whole day.

1058. Do you, generally speaking, coincide in the evidence then given, that it would be desirable to allow the expenses of prisoner's witnesses?—I do.

1059. Whom would you name to allow those expenses; would it be the judge or chairman who tries, or should the magistrates first of all hear as much as they can, and at once bind those witnesses over?—I should propose that the magistrates give a certificate, as they do now, at the examinations for the costs of the attendance of witnesses before them, the same as they do under I think the Act of the 6th Geo. 4; that that certificate should be subject to the revision of the presiding judge, and that he should have the power of allowing additional costs for their attendance at the trial.

1060. In short, that they should be placed precisely in the same situation as witnesses for the prosecution?—Yes.

1061. Supposing a person is found who may not have been examined before the committing magistrates on the part of the prisoner, would you likewise give the judge or chairman the power of also allowing his expenses, supposing he should be a competent and reasonable witness?—I would, the same as is the case now, where a witness for the prosecution appears upon subpœna.

1062. *Chairman.*] The proper administration of criminal justice is one of the great objects of society in your opinion, is it not?—It is.

1063. Do you not consider the state of things which you have just described, to be degrading to the administration of criminal justice?—Do you refer merely to the scramble by attorneys?

1064. I refer entirely to what you yourself have said; to any part of the evidence which you have given which you choose to select. Do you not consider that the description which you have given us, is degrading to the administration of criminal justice?—If I thought so, I would not continue to hold my present office.

1065. Then you do not consider it so?—I do not.

1066. No part of the evidence which you have given?—I consider that the scramble for prosecutions, which I have described, is disgraceful.

1067. And does not that exist at present?—I do not think it does to any extent; it does not exist in Manchester.

1068. Does it exist at all?—Not in Manchester, with which I am thoroughly acquainted; nor in the county of Chester, I believe.

1069. You have given the description; did you not use the expression yourself, a "scramble" for the prosecutions?—I think it was a word which you suggested.

1070. Then you do not know any case where there has been a scramble for the prosecution?—Yes; I say that when I was first appointed they were scrambled for.

1071. In your particular district?—They were.

1072. And you changed the system in consequence of that?—I did.

1073. Then you consider that degrading to the administration of criminal justice?—A scramble for prosecutions, I do.

H. L. Trafford, Esq.

21 June 1855.

1074. Supposing that to exist in any other part where the change which you made has not been made, do you consider it degrading to the administration of criminal justice?—Wherever that practice exists I consider it degrading to the public interests.

1075. In your opinion would it not contribute to make justice more or less venerable if there were one person responsible for the prosecution of offenders in each district, instead of leaving it to the chance of the attorney, whom the injured party may think proper to select, conducting it properly?—I do not think so.

1076. Have you ever studied the system of jurisprudence in any other country besides this?—No, not particularly.

1077. Mr. *Philipps.*] You have not said a word about the grand jury. Do you consider that there would be any advantage in a professional man being always in readiness to assist the grand jury in the way of marshalling the evidence submitted to them?—I do. I consider that it would be a great improvement in the discharge of the duties of the grand jury if the attorney for the prosecution went into the room and examined the witnesses, and gave an outline of the case, and let the grand jury determine upon the case.

1078. Have you ever known any abuse result from the power of the grand jury to find a bill without the previous commitment of a magistrate?—No.

1079. In a case of an assault?—No.

1080. Mr. *Miles.*] Is it not in the power of any person first of all, if he has been assaulted, to bring the assault before the magistrates?—It is.

1081. They may discharge it, not thinking that there is sufficient ground for the accusation; has he not the power, if he happens to be a witness in any case at the sessions or assizes, of preferring, upon his own word, a bill of indictment against the party for the assault?—Not if the case has been heard before two magistrates.

1082. Supposing that fact is held back, and there is no gentleman upon the grand jury cognizant of the fact, he has that power?—Yes; it is the privilege of every Englishman to present a bill to the grand jury.

1083. Do you not think that that is a power which is very frequently abused?—I do not; that has not come within my knowledge; I believe that the practice of preferring what you may term vindictive or malicious indictments is chiefly confined to London, and I think that the practice which Lord Campbell complained of, of compromises, might be very much done away with, if the court before whom a conviction took place, took the matter of issuing an execution or warrant for imprisonment into their own hands, and let the complainant have nothing on earth to do with it.

1084. Mr. *W. Ewart.*] How would you ensure their doing that?—By directing the process from the court itself to some officer of the metropolitan police, if in London; if in the country, to the constables at large all over the country.

1085. Must you have a legislative enactment to enforce that being done?—The Chief Justice of the Queen's Bench can issue a warrant into every county in England.

1086. Why does not he do it?—I am unable to say. The Court of Queen's Bench do not issue a warrant for imprisonment, I understand, until it is applied for by the party who has instituted the prosecution. I should say that that power of compromise which Lord Campbell complained of so much the other day would be very much lessened if the court, of their own motion, issued a warrant immediately on conviction, the same as they do on a bill being found by the grand jury.

1087. The point is, to set that power in motion?—I think the court itself ought to set that power in motion, the same as the court of assize does.

1088. Do you require a legislative proceeding to set this power in motion; because it is evidently a concession on your part that a power somewhat resembling public prosecution must be set in motion; can it be done as it is, or is it necessary to have a legislative Act to set that power in motion?—I think it would not be necessary, because the court have power to issue execution on the application of the party; and I do not see why they have not power equally to do it of their own free will.

1089. The power is not the question; putting the power in motion is the question?—I think the court should put their own power in motion immediately on conviction.

1090. *Chairman.*]

H. L. Trafford, Esq.

21 June 1855.

1090. *Chairman.*] You were good enough, the last time you were here, to offer yourself for examination, were you not?—I did so. I happened to be coming to London for the holidays, and wrote to Mr. Brotherton. I also felt anxious to be examined, because I do not think that an irresponsible public prosecutor ought to say what prosecutions should be conducted over the heads of magistrates, who are responsible for their conduct.

1091. You were anxious to be examined, that you might express that opinion?—Yes, and for other reasons.

Charles Hay Cameron, Esq., called in; and Examined.

C. H. Cameron, Esq.

1092. *Chairman.*] YOU were Legislative Member of the Council in India, I believe?—Yes.

1093. You succeeded Mr. Macaulay, I think?—No; Mr. Amos succeeded Mr. Macaulay; I succeeded Mr. Amos.

1094. I think you have been on several commissions in England of considerable importance; you were on the commission with Lord Wrottesley, were you not?—Yes, I was on the commission for inquiring into charities with Lord Wrottesley.

1095. Have you turned your attention a good deal to subjects connected with legislation and jurisprudence?—Yes, very much; for nearly the last 25 years I have been occupied on those subjects.

1096. Are you not now engaged in framing a code of laws for India?—The Law Commission in India, of which I was the president, made a great variety of recommendations for the reform of the law of India. The home authorities did not feel themselves, I believe, competent to decide whether those recommendations were fit to be adopted or not; and the present commission was appointed with a view of taking those recommendations into their consideration, and coming to a decision thereupon.

1097. Have you turned your attention to the subject of the appointment of a public prosecutor for this country?—Not at all for this country.

1098. But, generally speaking?—I have considered it with reference to India, and with reference to Ceylon, where I also had to legislate.

1099. And you have a knowledge of English law?—I have a knowledge of English law, from having been at the bar in former days.

1100. You were at the English bar?—Yes; I am still of course a member of the bar, but it is 26 years since I practised there.

1101. You studied with professional accuracy English law?—Yes.

1102. And you have turned your attention to the subject of a public prosecutor?—I have not turned my attention to it with reference to English institutions, with a view to consider how it should be adapted to the other institutions in this country.

1103. But having studied English law with professional accuracy, and also considered the subject in the way you mention, what is your opinion of the appointment of a public prosecutor?—My opinion is very strong and decided, that a public prosecutor would be a very great benefit to the administration of criminal justice in England.

1104. Will you be good enough to say what evils you think it would prevent?—I think that the business of criminal prosecution is one in which the public are so deeply interested that it is very wrong to entrust it to the feelings and caprices of individuals; that it is the proper business of a government officer.

1105. Mr. *Miles.*] Did you go to the circuit?—I did for a short time.

1106. For how many years?—I was called to the bar in 1820. I went the circuit till 1826, I think.

1107. What circuit?—The northern.

1108. From what you saw then of criminal jurisprudence, commencing *ab ovo*, do you think that it is necessary that a public prosecutor should be appointed in England?—Yes, I do; but I ought perhaps to tell you, that I never held a criminal brief, and that I never attended any sessions; therefore my practice in criminal law is absolutely nothing; but from my observation while I was on the circuit, my opinion was very strong in favour of having a public prosecutor, and it has always been so.

1109. Possibly, though you had not much practice, you will tell us upon what you founded that opinion?—I have founded it upon what I have already stated; namely,

C. H. Cameron, Esq.

21 June 1855.

namely, upon the general doctrine that this is not a thing to be left to the feelings and to the caprices of individuals; it is a great public function, which ought to be performed, I should think, by a public functionary; I do not believe it can be well performed otherwise.

1110. Supposing you were to throw the whole of the criminal business into the hands of only a certain number of lawyers, do you not think that such a proceeding would be a great injury to the bar in general?—You mean that it would dimish the emoluments? I dare say that it would.

1111. Do not you think it is a great thing to give rising men every chance you possibly can as to practice in their profession?—Yes; but not at the sacrifice of the public interests.

1112. Do you conceive from your recollection of the English bar, that by any conduct of the barristers on the northern circuit there was a sacrifice of public interests?—Not by the conduct of barristers, that I know of; I do not say that I observed that, but I should think that from the conduct of private prosecutors there must have been great injury; I do not say that even that is matter of observation which I made; it is my general opinion upon the theory of the subject.

1113. Then as I understand, having no particular experience in England, it is more from your theoretical view of the subject than from any practice whatever in England, that you now state that a public prosecutor is necessary?—It is so.

1114. Lord *Stanley*.] Assuming the appointment of a public prosecutor, would you leave to private parties the power of taking up cases which the public prosecutor had refused to take up?—The law of Scotland, as far as I understand it, seems to me to be quite right upon that subject. There, I believe, if the Lord Advocate does not choose to take a case up himself, the private party may take it up with the concourse of the Lord Advocate; and the Lord Advocate has it not in his power to refuse that concourse capriciously, because he is subject to an appeal to the Supreme Court upon that point, and may be compelled to give his concourse, if it is a case in which his concourse ought to be given. That seems to me to be a good condition of the law.

1115. Nevertheless, you would not allow the absolute unconditional right of prosecuting by a person conceiving himself aggrieved without some such permission?—No.

1116. Mr. *Miles*.] Relative to the jurisdiction of Scotland, has it come to your knowledge that in some cases the Court of Justiciary has made procurators-fiscal, who are the inferior jurisdictions, pay expenses to the private party when they have acted improperly?—Yes, I believe that is so.

1117. So that they are not immaculate?—No, I do not presume that anybody is immaculate.

1118. Mr. *Watson*.] What was your post in India?—My last post was legislative member of the council there.

1119. Had you any superintendence over the administration of criminal justice in India?—No direct superintendence; we were the Legislature of India, and the kind of superintendence which the Legislature exercises we exercised.

1120. Had you any post in India to bring you in contact with the administration of criminal justice in India?—I first went to India on the Indian Law Commission, which was a commission intended to examine the whole law and judicature of India, including of course criminal law, and to make recommendations thereon.

1121. How is the criminal law conducted in India?—When a complaint is made of a crime being committed, the case is taken before a magistrate, and the charge or indictment is drawn by him, and he is in some sense a public prosecutor, though not by any means in all senses; he exercises a discretion as to whether he shall frame an indictment, and send it up to the sessions court to be tried or not; or if it is a case, the trial of which is within his own cognizance, he exercises a discretion as to whether he shall try it or not; but in both cases subject to appeal to the sessions court, and ultimately to an appeal to the Supreme Criminal Court, which is the Court of Nizamut Adawlut.

1122. Who prepares the case and brings it to be tried?—Generally speaking, the private prosecutor, with the assistance of the magistrate.

1123. Have you anything in the nature of a public prosecutor in India at all?—Nothing more than that there is an official in India who is called the Government vakeel. I should mention that there are two perfectly distinct systems existing

existing in India; in the Presidency towns there is a system copied from England in some respects, and in the Mofussil, as it is called, there is a system totally distinct; I am now speaking of that. There is in the Mofussil an officer called the Government vakeel. His principal business is to conduct revenue cases on the part of the Government; but sometimes when the magistrate thinks that a case cannot be fitly conducted by a private prosecutor, he will desire the Government vakeel to conduct it himself. In such a case as an affray, where there has been a battle of clubs, which frequently happens, and both parties come to complain, the magistrate doubts perhaps which ought to be the prosecutor, and which ought to be the defendant. Then the course which he adopts is to make both defendants, and to direct the Government vakeel to conduct the prosecution.

1124. Mr. *W. Ewart.*] Is he not a native clerk?—A native attorney and barrister.

1125. A magistrate in India is more an administrative officer than he is in England, is he not?—Yes.

1126. More under the Government?—Yes.

1127. Having been an English barrister, and connected with the department in India, do you see any reason why the general principle of public prosecutors should be excluded from England more than from any other country?—No, I see no reason whatever; there may be more practical difficulties perhaps in adapting that system to the existing institutions of England, but excepting that there is no reason whatever.

1128. *Chairman.*] You said that during the time that you were at the English bar you were an observer of the proceedings in the courts of criminal justice; you paid attention to the subject?—Yes.

1129. You said that you thought that a sacrifice of the public interests was the consequence of not having a public prosecutor; you did not mean by that to make any reflection upon the English bar, but to speak of the inevitable working of the system?—Just so.

1130. I dare say you are acquainted with the French law upon the subject?—But imperfectly.

1131. Have you ever read the article in "Merlin's Digest," *Ministère Public*?—No, I never have.

1132. Do you agree with this, the writer is talking of the effect of a public prosecutor: "Crimes can no longer remain unpunished; a citizen is not exposed to the burthen and expense of a prosecution, or responsible for the event; the punishment inflicted on crime is a matter in which the public have an interest, and it ought to follow crime as the effect follows the cause. A minister of the law watches over all society to prevent and to chastise crime, and for that purpose he is invested with the whole public authority." Do you approve of that sentiment?—Entirely.

1133. Mr. *Miles.*] Still the system of French jurisprudence is very different from our own, is it not?—Very different indeed.

1134. There are preliminary inquiries of the prisoner; would you recommend that that plan should be adopted?—I cannot answer that question without knowing more accurately what the proceeding is; I think there should be more examination of the prisoner than we have in this country. I am not prepared to say that I should adopt the whole French system upon that subject.

1135. Mr. *W. Ewart.*] Do you think that the circumstance of the system of public prosecutions in France having been established under the ancient monarchy, and having passed through the changes of a republic and a constitutional monarchy, is a proof of the general approbation by the French people of such a system?—Yes.

1136. *Chairman.*] Mr. Miles asked you whether the system would not be detrimental to the interests of the English bar; do you think that the Scotch bar suffers from the system which prevails there?—Probably, if the present Scotch system were done away with, and the English system substituted, more barristers would receive fees, or some barristers would receive more fees than they do now.

1137. Then in that respect it would be detrimental to their interests; it would lessen the emoluments of the Bar?—Yes.

1138. Does it appear to you in any other way detrimental to the interests of the Bar?—I think not.

1139. Mr. *Philipps.*] Do you think that a public prosecutor is most required,

C. H. Cameron, Esq.

21 June 1855.

for positive or for negative reasons, to check prosecutions improperly instituted, or to promote prosecutions improperly withheld?—I should think that he is necessary for both purposes; I am hardly prepared to say for which he is most necessary.

Mr. *John Hughes Preston*, called in; and Examined.

Mr. *J. H. Preston.*

1140. *Chairman.*] WILL you be good enough to tell us what your profession is?—I am a Solicitor.

1141. You were employed, I believe, by the Government to examine into the expense of criminal prosecutions on the Oxford Circuit?—I was.

1142. On any other circuit besides the Oxford Circuit?—I have not gone on any other circuit than the Oxford Circuit on behalf of the Government, but I am acquainted with the practical working of the entire system, and have been so for the last 25 years.

1143. Have you turned your attention to the subject of this Bill, the appointment of a public prosecutor?—I have.

1144. Will you be good enough to tell us, from your experience, what you think of the expense, and how far a remedy might be applied to it?—I think the appointment of a public prosecutor would effect a very considerable remedy. I am sorry to say that my experience points out that very corrupt practices are going on under the existing system. I regret to observe, on the part of attorneys, justices' clerks, and the police, a desire to augment, to the greatest possible extent, the costs of criminal prosecutions. Great abuses are committed in making out the certificate of expenses before the committing magistrate; and it is to be regretted that, in too many cases, the magistrates do not exercise control, but appear to take for granted that all has been done upon the certificate submitted to them for signature, allowing heavy expenses under the heads of "costs of apprehension," "search after prisoner," "getting up case," to an extent which is frequently enormous, and clearly an excess of jurisdiction on the part of the committing magistrate. These expenses are becoming a serious evil, and most unnecessarily aggravate the costs of prosecutions.

1145. Then, in your opinion, the practices which take place amount to roguery?—I am sorry to say that that is my decided conviction.

1146. The practices which take place between attorneys and policemen, in consequence of the want of a public prosecutor?—Unquestionably so.

1147. You in no way mean to reflect upon the conduct of the magistrates?—Certainly not.

1148. Does it appear to you that frivolous prosecutions are brought?—Unquestionably; frivolous and groundless prosecutions are frequently brought.

1149. Does it appear to you that prosecutions are made use of as a means of extorting money?—I believe they have been; in point of fact, I have known of such instances.

1150. Did it ever happen to you to pay attention to the way in which prosecutions are managed; does it appear to you that there is a failure of justice from the want of some responsible person to take care that the proper evidence is brought?—I think that there is often great mismanagement in conducting cases under the existing system; I find that the police, in concert with some low attorney, get a majority of cases, except those cases which are conducted by the magistrates' clerks.

1151. Mr. Straight, from the Old Bailey, has told us that a vast number of cases are managed by policemen in London; does your experience correspond with that?—It does.

1152. Mr. Straight also told us, that he thought the policemen about the worst people possible to have such a trust delegated to them; does your experience coincide in that?—It does.

1153. Mr. *Attorney-General.*] Can you give us your reasons for that?—My reason is this, that I find on the part of the police an anxiety to get up cases, and to put themselves in communication with attorneys and different parties, and I am afraid that in their hands there is often not only a failure of justice, but that also corrupt influences are at work.

1154. Mr. *W. Ewart.*] Are you aware that those corrupt practices by the police are not confined to London?—They are not confined to London; I would beg to instance a case which came under my observation at Shrewsbury. The

practice

practice with the Bank of England is to pay the costs of all prosecutions subsequent to committal; but the costs under the magistrate's certificate are paid by the Treasury in the ordinary way. I find magistrates' certificates in these cases very heavy charges, where police officers on their own mere impulse have been permitted to take long and expensive journeys to collect information, as they phrase it; and on their representation they are allowed expenses amounting to 50*l.* and upwards.

1155. Mr. *Attorney-General.*] There can be no doubt that it is very desirable that in many cases such journeys should be taken for the purpose of obtaining information?—No doubt of it.

1156. But you probably mean that it ought to be done under the regulation of some superintending authority, who may be the judge of what is fitting and what is not?—Clearly so; I find, in some instances, that these police officers, not being instructed by any one, and as it were on speculation, have made those journeys and received those allowances.

1157. Do you think that in doing so they have been influenced by any desire of abuse?—No doubt; to put money into their pockets.

1158. Mr. *W. Ewart.*] As I understand you, the magistrates allow too liberally these large expenses to police officers?—I think they do; and that the practice which prevails of putting policemen into cases and allowing them expenses under the magistrate's certificate, where they are not witnesses, but merely introduced for the purpose of getting them up, is improper.

1159. Mr. *Attorney-General.*] Do you agree in this, that both courts and juries are inclined to give great credit and weight to the testimony of policemen, as being officers acting under public authority?—They do.

1160. And another thing which experience shows is, that prisoners, when taken into the custody of policemen, are very apt to make communications to them?—They are.

1161. Which communications of course are repeated for the purposes of justice at the trial?—Yes.

1162. Under those circumstances is it your opinion that the policemen ought to be removed from all motive for unfairly pressing a prosecution?—Undoubtedly; there is too much eagerness, I think, on the part of the police to gain the information referred to.

1163. *Chairman.*] Have you considered this case: There are many cases in which it is necessary that an attorney should make a considerable advance of money in order to get up the evidence for the prosecution?—Undoubtedly so.

1164. Do you consider that that necessarily tends in many cases to a failure of justice?—Clearly so; it is improper; an attorney should not be in such a position as to be called upon to do any such thing.

1165. Does it not often happen, from a peculiar view which the judge may take, that an attorney may be actually out of pocket, and not be repaid the expense which he has a fair right to ask for getting up a prosecution?—Frequently.

1166. You have known such cases?—I have.

1167. There is a remarkable case which has been quoted several times, and which I therefore will not repeat to you, but in substance it is, that an attorney got up a case of murder, which was one of very great difficulty; he was complimented by the judge, and the result was, that he lost 40*l.* by it; do you think, from your experience, such a case at all impossible or improbable?—I think it quite possible. There is another point which I would mention, namely, the number of separate indictments preferred against the same prisoner, which appears to me to be a great abuse. I had a case on the Oxford Circuit, a case of forgery, no doubt a wholesale case of forgery, but upon that occasion 12 distinct indictments were preferred, and costs were claimed in respect of each. The prisoner was convicted upon the first indictment.

1168. And there were 11 more?—There were, and there were sets of fees claimed upon each.

1169. Mr. *Watson.*] Do you travel the circuit regularly now?—I do not.

1170. You have only gone upon one or two occasions?—Yes.

1171. And that, I suppose, was to tax the fees after the termination of the case?—Yes.

1172. Have you found that you have been able to reduce the expenses of prosecutions very much?—Considerably.

Mr. *J. H. Preston.*

21 June 1855.

1173. And I suppose there were considerable abuses in that way, before the Government adopted the system of sending gentlemen like yourself, acquainted with the criminal law, to tax the expenses at assizes?—Undoubtedly so; the expenses were enormous.

1174. I know that you were many years in business as a solicitor at Newcastle; did you practise in the criminal law, either in prosecuting or defending, there?—I did.

1175. Did you become acquainted with the practice of the criminal law from the time of committal to conviction?—I did.

1176. Did you find such abuses as you have stated existing during the time of your practice in the north?—I found considerable abuses existing; but certainly on the Northern Circuit, they did not amount to the extent which I experienced on the Oxford Circuit.

1177. I believe I may say that the prosecutions are, generally speaking, in very respectable hands both in Northumberland and in Durham?—Yes.

1178. On the Oxford Circuit there is a large amount of crime from the county of Stafford, I believe?—Yes.

1179. Does that part of your evidence which points to those corrupt practices apply principally to Stafford?—Yes; but no doubt elsewhere there might be a reduction of expenses.

1180. The more respectable the hands into which the case comes, the higher the rate of expenses allowed?—Yes.

1181. Are you aware that formerly, in Durham, the clerks to the magistrates from Sunderland and all those places used to conduct all the prosecutions?—Yes.

1182. Do you think that a good system?—I do not think it is a good system for the magistrate's clerk to conduct the prosecution; I think it is exposing him to the temptation of unnecessarily multiplying evidence and increasing the expense.

1183. If he were paid by a salary, it might be another thing?—Clearly.

1184. And that would come nearly to the case of a public prosecutor?—I consider that a public prosecutor would insure a sound and effectual administration of the criminal law.

1185. Mr. *Attorney-General.*] Do not you consider that it is part of the duty of the magistrate's clerk, in many cases, to advise the magistrate as to the propriety of committing?—No doubt of it.

1186. Do you think that that sort of *quasi* judicial function is consistent with the function of public prosecutor?—I think not.

1187. Lord *Stanley.*] Do not the costs of prosecutions vary in different counties?—They do considerably.

1188. To a great extent?—To a considerable extent.

1189. Do you conceive that it would be possible to reduce them to anything like a uniform scale?—It is quite capable of being done.

1190. Is it a fact that prosecutions are in general more costly in the counties than in the boroughs?—Necessarily so, because witnesses come from greater distances in the counties.

1191. Is any increased authority wanted to pay witnesses for lost time?—I think not. I am afraid that they very often are not paid at all by the prosecuting attorney. I have had many opportunities of observing it.

1192. Mr. *Attorney-General.*] You mean that the attorney embezzles the money?—Positively so.

1193. Lord *Stanley.*] You do not think that there is any want of authority to pay them?—No. In many places the practice prevails that the witness alone shall sign the order for payment, and that secures to a certain extent payment to the witness. In other places the attorney receives the entire amount, including the allowance to witnesses.

1194. I find it stated in an official document that the expenses of prosecutions in England and Wales increased sixfold between 1821 and 1841; that they were about 60,000*l.* in 1821, and nearly 360,000*l.* in 1841. Is that consistent with your experience?—That I cannot answer. I only know that since the Treasury have paid the entire amount of costs on prosecutions the expenses have increased very considerably.

1195. Does that increase represent a proportionably greater efficiency in the criminal law?—I am afraid that there is a want of supervision, which existed when the counties had a moiety of the expenses to pay. I do not think there is the same amount of supervision which formerly existed.

1196. You

1196. You recommend the appointment of a public prosecutor?—I do most decidedly.

1197. Do you mean a district agent only, or a public prosecutor also residing in London, and exercising a general supervision?—My notion is of having the country divided into certain districts, and a public prosecutor attached to each district.

1198. *Chairman.*] According to the Bill which you have read?—Not exactly according to the details of that Bill.

1199. Lord *Stanley.*] Do you or do you not consider it necessary that there should be one central authority in London at the head of this system?—My opinion is that the object could be attained by the appointment of public prosecutors distributed over the country; dividing the country into certain districts.

1200. *Chairman.*] Subject to the Attorney-general?—Subject to the Attorney-general.

1201. Mr. *Attorney-General.*] By that I presume you mean some one who shall prepare the cases for trial?—I do.

1202. In the answer which you gave to Lord Stanley's question, you did not mean any one to conduct prosecutions at the sessions or the assizes in the way of counsel; but some one to get up the cases and prepare them for trial?—To get up the cases.

1203. Mr. *W. Ewart.*] Do you think that that would be sufficient without having the central assistance of a public prosecutor, as they have in Scotland?—They would essentially be public prosecutors; it would be the authority, as it were, spread over a given number of public prosecutors,

1204. In Scotland it is not only spread over, but it is concentrated also?—It is.

1205. You would not recommend that system of concentration, as I understand you?—I do not say that.

1206. *Chairman.*] I take Mr. Ewart's question to be, in fact, this: would you or would you not recommend that not only district agents should be appointed to manage and prepare the evidence, but that there should be persons appointed to conduct the cases in court as barristers?—I think there should be responsible parties to manage and prepare the evidence, and barristers to conduct cases in court as at present.

1207. Subject, of course, to the controlling power of the Attorney-general?—Yes.

1208. Mr. *Attorney-General.*] If I understand you rightly, you have directed your attention principally, so far as the necessity of a public prosecutor is concerned, to the preparing of the case for trial?—Yes.

1209. Is it your opinion that, under the present system, cases are often brought to trial without sufficient preparation?—They are.

1210. You have no doubt of it?—I have not the slightest doubt of it whatever.

1211. And justice fails in consequence?—Very frequently.

1212. Besides that, I understand you to say that you think that the system of allowing these prosecutions to be got up and brought to trial as they are, is radically wrong?—I think it is a scandal to the country.

1213. Mr. *Miles.*] You find fault with the certificates granted by magistrates for the apprehension of prisoners; whom would you recommend as the party to be the judge of the expenses requisite for bringing a criminal properly to justice, the magistrates, or some other power; and if so, what power?—I think the magistrates allow too liberally expenses of that description. At present they are not empowered by law to allow the mere costs of apprehension, costs in search of a prisoner, or costs of getting up evidence. The policeman ordinarily employed receives his wages or salary for the services he actually renders, and what money he is out of pocket he ought to have, but nothing more.

1214. You are aware that it is not in above one-half of the counties of England that there are police, are you not?—I am.

1215. Supposing an unpaid constable is equally zealous with a policeman, and eventually after a long search brings a criminal before the magistrates, do you think that he is paid too much?—I think he is. I think the employment of an unpaid constable is a great evil, because it leads to his claiming excessive expenses.

1216. I understand you first of all to state as to a paid policeman, that you think because he receives a salary he ought not to be paid so much; and I wish you to institute a comparison between the paid and the unpaid constable. Do you

Mr. *J. H. Preston.*

21 June 1855.

you not conceive that there ought to be a power given into the hands of the magistrates as to the unpaid constable?—Yes, they have that power; and I complain, that in too many instances they do not exercise it with that caution which ought to be expected.

1217. In such a case I must ask you to give instances?—I would mention a bank case to which I have referred.

1218. Where did it take place?—Some detectives at Birmingham brought in a large bill in respect of long journeys they professed to have undertaken for the purpose of procuring information against the prisoners in that particular case; they claimed very heavy expenses. They were allowed what appeared to be reasonable and proper; but when they undertake unreasonable journeys, and evidently by way of speculation, of course these expenses are disallowed.

1219. Who are to be the judges whether these journeys are unnecessary; the magistrates before whom the cases are brought, or the taxing officer of the court, who merely taxes the costs afterwards?—In these cases I have found that the subject has not been gone into at all; and entirely on the representation of the police officers the allowances were made. I find in numerous cases that annexed to the magistrates' certificates particulars are not furnished, setting out the details of the expenses incurred by the officers, which renders it impossible to tax them.

1220. Supposing these long journeys should have taken place, and these expenses should have been incurred, and, owing to these long journeys and these expenses so incurred, evidence has been adduced which has led to the conviction of the prisoner, do you think they ought not to be paid?—In all cases reasonable expenses are paid; whatever is fitting and proper.

1221. Who is to be the judge as to the fitness of the proceedings; the gentleman before whom the criminal is brought, or a gentleman who is not connected at all with the county, who knows not the police, and sees a bill coming in for the whole of the case?—The magistrate ought to be the judge; what I say is, that I find that he too liberally allows; that he does not inquire into all the particulars, which are essential to ascertain, as to the propriety of the charges made.

1222. Do you say that from personal cognizance?—I do.

1223. You say that you have been in a magistrate's court when these expenses have been allowed, and that the magistrates have allowed too much in that case?—I have known magistrates' certificates which have come before me, and which I have investigated, where certainly far too much had been allowed.

1224. *Chairman.*] Which you were appointed to investigate?—Yes; and I had the parties before me, and did so with instruction to allow everything which was reasonable and proper.

1225. Mr. *Miles.*] But you could not touch the original certificate of the magistrates?—Yes, I could.

1226. In what way?—Under the 14th & 15th Vict. s. 6 the magistrate's certificate is not conclusive.

1227. Had not it been previously paid by the treasurer of the county?—No; it is never paid until the final order is made for costs.

1228. Mr. *Napier.*] The remedy which you propose is, that you would have those expenses checked by the person placed over the district; you would have them put under his surveillance?—Clearly so; the public prosecutor appointed for the district.

1229. Mr. *Attorney-General.*] I suppose you would include in that that no such journey as you have mentioned should be undertaken upon the mere motion of a policeman?—Clearly so.

1230. Before he took upon himself to make an expensive journey, he should first apply to the public prosecutor to know whether he ought to do it?—Unquestionably so.

1231. Mr. *Miles.*] Is the district prosecutor to undertake the duties of magistrate?—The public prosecutor will have to point out and direct what evidence is necessary in support of the case.

1232. Is it not very much better at once to have stipendiary magistrates, and to do away with the unpaid magistracy immediately?—That is a matter of opinion entirely.

1233. Mr. *Napier.*] As I understand you, you would have the magistrates' clerk to take the informations?—Yes.

1234. And then to lay them before the district prosecutor, and he would say whether

whether further witnesses were necessary?—Exactly so; I would have the magistrates' clerk transmit to him copies of the informations, and he would say whether or not it was a prosecution proper to go on.

1235. *Chairman.*] As I understand you, it is no part of the purpose of your evidence at all to interfere with the duties of the magistrates as they now exist? Certainly not.

1236. You do not draw the inference which Mr. Mills has drawn?—Certainly not.

1237. Mr. *Miles.*] The public prosecutor would still have to order, if necessary, the police to search for further evidence?—No doubt of it.

1238. And you would give the public prosecutor the power of granting the expenses?—Undoubtedly.

1239. Would you not be taking what is now done by the magistrates out of their hands?—No.

1240. Namely, first of all, the ordering the police to search for further evidence; and next, the determining what amount should be paid to the police for that further search?—The magistrate would have the power of making an order, subject to the public prosecutor making the payment.

1241. Then you would place the magistrate directly under the public prosecutor?—No, I would not, certainly. I would merely give him power that if, for instance, a magistrate had allowed too much upon his certificate, he might have an opportunity of correcting it.

1242. Would not that override the power of the magistracy?—I think not; it is done so now; it is done so on the Northern Circuit, on the Oxford Circuit, and also upon another circuit, where taxing officers have been appointed.

1243. *Chairman.*] If the attorney for the prosecution finds further evidence necessary now, does he not give the police direction to search for it?—Undoubtedly he does; and there is often a great amount of evidence imported into the case after the prisoner is committed by the magistrate. In point of fact, I fear that that is far too much abused.

1244. Mr. *Miles.*] Did not the observations which you made in answer to my questions, relate not to any evidence which may be procured after the prisoner is committed, but to evidence which takes place previously to the committal, and when he is under examination before the magistrate?—I would leave to the magistrate all the power which he at present possesses of determining the case before him, and committing the prisoner; his clerk should then send the depositions to the public prosecutor, who would decide as to whether or not it was a case to be prosecuted.

1245. Mr. *Attorney-General.*] If I understand you, what you mean is, that the magistrates should exercise judicial functions so far as to determine whether or not there was a case to send for trial, but that the getting up of the evidence should be left to the public prosecutor?—Yes.

1246. Mr. *Miles.*] Would you adopt any other suggestion in the Bill, except as to the district prosecutor?—Yes. It is a mere question of detail; probably I am influenced by an opinion that the principle of the Bill might be less expensively worked out.

1247. Will you be kind enough to state in what way it could be less expensively worked out?—It has occurred to me, that if public prosecutors were appointed to certain districts, they should have within their district the necessary machinery for conducting the cases, and seeing that they are properly carried out; that that would be a less expensive mode than the one contemplated by the present Bill. I think that the appointment of public prosecutors in various districts of the country, who would have the means by their own staff to conduct cases to trial, would be less expensive than the mode contemplated by the present Bill.

1248. What do you mean by "their own staff"?—A public prosecutor would undoubtedly require a clerk or clerks to do what is necessary for enabling the case to be taken to trial.

1249. Then, in a large county, would it not be necessary to have two or three public prosecutors?—I think not.

1250. How would you distribute them?—It is a question of detail; it has occurred to me that, in some of the circuits, for instance, two prosecutors would be sufficient; it is a mere question as to the number, but the principle is the same.

Mr. *J. H. Preston.*

21 June 1855.

1251. The greater the number, the greater the expense would be, if you had efficient men, would it not?—The greater the number, the greater the expense; but I think the expenses would be lessened, because district agents, in that case, would not be necessary.

1252. Then, possibly, you would not appoint those officers contemplated in the 10th clause at all?—I think, if my view was carried out, they might be dispensed with. At the same time I think it is a very valuable part of the Bill to have officers of that description.

1253. Would you place the briefs of the public prosecutor in the hands of one person at the assizes?—I would not.

1254. How could you prevent favouritism by the public prosecutor in distributing the briefs to his own particular friends?—I think the prosecutor should have the power of nominating his own counsel if he thought fit.

1255. Mr. *Attorney-General.*] You mean the private prosecutor?—The private prosecutor.

1256. Mr. *Watson.*] I suppose a public officer would select the best gentlemen he could find, and distribute the briefs, subject to a species of public opinion?—I have no doubt he would.

1257. On the Northern Circuit does not a gentleman regularly attend to tax the costs?—Yes.

1258. Is that the case on any other circuit?—It is the case on the North Wales and Chester Circuit, and I believe it is in contemplation to have them generally.

1259. Are you aware of the result on the Northern Circuit of having a gentleman to attend for that purpose?—The result has been most beneficial.

1260. Is there a reduction of expenses?—A very large reduction of expenses.

1261. Mr. *Miles.*] Have you any document which will show us the costs claimed by different parties on the Oxford Circuit, and the costs allowed after taxation?—I am sorry I have not; as a practice prevails there of not having any printed bill. In point of fact, attorneys give a list of witnesses, with their distances put down, and their briefs, but they do not make out a bill, and the duty of the taxing officer is to ascertain how far the allowances claimed by the proseuting attorney and the distances are correct. I am sorry to say that I have often found them very much aggravated in point of distance, and mileage claimed instead of railway fare.

1262. Could you, from memory, tell us at all what in your recollection was the difference between the charges made and the costs allowed?—I could not give an average, but very considerable reductions have been effected, very much depending upon the character of the party entrusted with the prosecution. I may mention that I have made a list, showing the number of persons committed for trial, the number of convictions, acquittals and bills ignored upon that circuit. I beg to call the attention of the Committee to Stafford. At the last spring assizes 93 prisoners were committed for trial at Stafford; 54 were convicted, 33 were acquitted, and six bills were ignored, making very nearly one half.

1263. *Chairman.*] Do you attribute that state of things in any degree to the misconduct of attorneys and policemen?—I do.

1264. Gross misconduct?—Gross misconduct; and many of those cases really ought not to have gone to trial.

1265. Mr. *Miles.*] As you have given us what occurred in Staffordshire, will you give it for the other counties, and show us how the acquittals and convictions stand there?—I will begin with the county of Berks.

1266. Mr. *Attorney-General.*] Do you speak of one circuit?—Yes, the last spring circuit. I find that there were committed for trial in Berks 51 prisoners; 34 were convicted, 13 acquitted, and four bills were ignored.

1267. That is 17 upon 51?—Yes.

1268. Mr. *Philipps.*] Half the number of the convictions?—Yes.

1269. Mr. *Attorney-General.*] And one-third of the whole commitments?—Yes. The Oxford committals were 57; there were 46 convicted, there were eight acquitted, and three bills were ignored.

1270. *Chairman.*] There is no police in Oxford?—That is so. Worcester, 55 committals; 40 convicted, 12 acquittals, and three bills ignored.

1271. Mr. *Attorney-General.*] That is 15 upon 55?—Yes. In the city of Worcester, 24 were committed, 21 convicted, and three acquitted. Then I come

to

to Shropshire; 31 were committed, 20 convicted, nine acquitted, and two bills were ignored; that is 11 out of 31.

1272. *Chairman.*] That is about one-third?—Yes, on the whole you will find it is about one-third. Hereford, 16 committed, 10 convicted, three acquitted, and three bills ignored. Monmouth, 38 committed, 25 convicted, 11 acquitted, and two bills ignored. Gloucester, 61 committed, 41 convicted, 16 acquitted, and four bills ignored.

1273. That is one-third again?—Yes.

1274. Will you give the total numbers?—The total is 426 committed, 291 convicted, 108 acquitted, and 27 bills ignored.

1275. That is to say, there were 426 committals, and out of those 135 parties escaped punishment?—Yes.

1276. Mr. *Attorney-General.*] Do you ascribe that proportion of persons not convicted to improper prosecutions, or to prosecutions imperfectly got up?—I ascribe it to improper prosecutions, and, in several instances, to their being improperly got up; in point of fact, the presiding judge in several cases refused costs, considering them improper to have been brought before him.

1277. Mr. *Napier.*] Where the bills have been found, were many of those improper prosecutions?—I think so.

1278. Do you think that in many of those cases, if they had been properly inquired into beforehand, they would not have been brought forward at all?—I think they would not.

1279. Mr. *Miles.*] Stafford seems to have the pre-eminence in laxity there; to what do you attribute the very lax conduct of criminal prosecutions in Stafford?—I attribute it to a too great eagerness on the part of the police to get up frivolous and groundless cases; and to their being in connexion with low attorneys who conduct them; and hence, in many instances, a failure of justice arises. It is notorious that a great many frivolous and groundless cases are brought forward in Staffordshire.

1280. Mr. *Napier.*] Is there pecuniary temptation to the police?—There undoubtedly is. I have no doubt the police are paid by the attorneys, and they get allowances made to them, and I am afraid that they get money in a very improper manner.

1281. Mr. *Miles.*] Do you conceive that what you have just read to us as to the state of the calendar, and the acquittals and convictions upon that circuit at the last spring assizes, pretty well indicates to us how justice is administered in the different counties?—I do not profess to give an opinion as to the other counties. I believe you will find that the result is about one-third acquittals upon the total amount; I think that is a greater proportion than it ought to be if things were properly conducted.

1282. Mr. *Attorney-General.*] With reference to the expense of appointing district prosecutors; do you think that upon the whole, considering the amounts now allowed to attorneys for bringing prosecutions into court, and considering also the amount which you think is allowed to policemen in excess of what they ought to get, the appointment of an adequate number of district prosecutors would entail any substantial increase of expense upon the country?—I think not.

1283. You think after making the necessary deductions for what would be saved in fees now paid to attorneys, and what is paid in excess to policemen, the result would be that the public would not lose in point of money, while they would gain in point of efficiency in the conduct of public prosecutions?—That is my opinion, and I have gone into the subject very carefully.

1284. Mr. *Philipps.*] Speaking of Stafford, you said that many cases were tried which ought not to have gone to trial?—Yes.

1285. Do you mean by that that the grand jury ought to have thrown out more bills than they did?—I think so.

1286. Do you think that generally the grand jury find bills which they ought to throw out?—It is impossible that the grand jury can know the nature and character of every particular case, and therefore they sometimes send for trial cases which, if they had been acquainted with the circumstances, they would not have done.

1287. Do you think that there would be any advantage gained in a professional man being in readiness to assist the grand jury by marshalling the evidence, or directing them to any particular points of the evidence?—I think it would be useful.

Mr. *J. H. Preston.*

21 June 1855.

1288. Mr. *Miles.*] That is done now?—To some extent it is.

1289. *Chairman.*] I understand you to say that you assent to the principle of my Bill, but you differ as to some of its details?—That is so.

1290. Mr. Trafford told us that when he came to the office, which he holds as paid magistrate, at Salford, he found that in many cases the attorneys had embezzled the money with which they had been entrusted to pay witnesses on prosecutions; do you believe, from your experience, that that is often the case?—Too frequently, I am sorry to say.

1291. And yet those very men have the power of superintending the prosecution altogether?—No doubt of it; I have had frequent instances where witnesses have come to me as taxing officer, and stated that they could not get their allowances from the attorney; that they had been told by the attorney that no allowances had been made, whereas he had pocketed the money and not paid them.

1292. You know that there was a Mr. Garbett on the Oxford Circuit, whose name was struck off the list of attorneys from that very circumstance?—Yes.

1293. He had more prosecutions than all of them for many years?—Yes; there are too many persons of that description to be found, I regret to say.

1294. Your attention has been particularly turned to Stafford?—It has.

1295. Have you any doubt that there are policemen there acting in league with low attorneys constantly, and that prosecutions depend very much upon a conspiracy between them?—Undoubtedly; it is perfectly notorious.

1296. Gentlemen have been asked as to the independence of the bar; do you conceive such a state of things as that favourable to the independence of the bar?—No.

1297. That the attorneys who distribute the business should be in league with policemen whom they pay to bring them business?—It is a most improper state of things.

1298. Have you paid attention to the proportion of acquittals in Scotland?—I have not.

1299. Mr. *Philipps.*] In speaking of witnesses as unnecessary, are you allowing for the difference between a judgment formed after the event and a judgment formed before the event; because, of course, after the trial is over, it is very easy to say that certain witnesses were unnecessary?—I have found a needless accumulation of evidence; amounting in fact to nothing but repetition. I have found six policemen introduced into a case where one would have sufficed; and I have found witnesses imported subsequently to committal who were not at all essential to prove any particular facts, but merely introduced into the case to increase the costs.

1300. Mr. *Watson.*] In getting up a prosecution, a public prosecutor would be competent to say what witnesses might be dispensed with, and what witnesses should be subpœnaed, and what further evidence was requisite?—Yes.

1301. In civil causes you always consult your counsel, to know what evidence you shall adduce?—Yes.

1302. The public prosecutor would do all that?—He would, and correct a great many evils which now exist.

1303. Mr. *Miles.*] Are you aware that in some counties individual magistrates appoint their own clerk, besides the clerk of the petty sessional division?—I have known cases of that kind.

1304. And that they take the evidence for prosecutions under their clerk in their own houses?—Yes, I have known that.

1305. Do you think that an advantageous, or a disadvantageous plan?—Certainly not an advantageous course.

1306. Do you not think it would be better at once to prevent that bye-law, and that the petty sessional clerk of each division should be appointed by the whole of the magistrates, than that each individual magistrate should have the power which he now has of appointing his individual clerk?—I think so; I think it ought to be so.

1307. Do you not think that that would lead to the furtherance of justice, and more particularly in criminal prosecutions?—Under the existing system I think it would.

1308. *Chairman.*] Would you consider that at all an adequate remedy?—Certainly not; the temptation on the part of magistrates' clerks would still remain

remain to send doubtful cases for trial, and it would not prevent the accumulation of groundless and frivolous cases, the reception of unnecessary evidence, and excessive and improper charges.

Mr. *J. H. Preston.*

21 June 1855.

Captain *John H. Hatton*, called in; and Examined.

Captain *John H. Hatton.*

1309. *Chairman.*] I BELIEVE you are chief of the Constabulary at Stafford?—I am.

1310. And have had opportunities of watching the working of the criminal system there?—Yes.

1311. Can you tell us whether, in your opinion, there are any evils in that system which might be removed?—I think there are.

1312. How long have you held the appointment which you now hold?—I have been since 1842 chief constable of Staffordshire; prior to that I was chief constable of East Suffolk; I organised a force in Suffolk.

1313. Will you be kind enough to point out any of the evils in the manner of conducting prosecutions and procuring evidence, which it appears to you might be avoided, if there are such evils?—I think it is very objectionable policemen being bound over as prosecutors.

1314. That is a common practice in Staffordshire, is it not?—It is a common practice.

1315. And you think it very objectionable?—I do.

1316. On what grounds?—On more grounds than one. I do not think it right that policemen should be prosecutors, if it can by any possibility be avoided; but the magistrates out of two evils choose the least.

1317. What was the other evil?—If they bound over the generality of prosecutors, the prosecution would either be compromised or drop to the ground; people would not come forward.

1318. Then the policemen were bound over from the want of somebody to see that the prosecution did not fall to the ground?—Yes, generally.

1319. Have you had an opportunity of observing, with regard to attorneys, whether there is any indecent scramble between attorneys for the management of prosecutions?—Yes, I have been obliged to interfere.

1320. How did you interfere?—When I first organised the force in 1842 and 1843, I noticed that attorneys of a certain class were very often in prosecutions, which I objected to; and I made some inquiries. The result of the inquiries was that I found out that the constables were in the habit of receiving sums of money from them.

1321. From these attorneys?—From these attorneys. I punished the parties. I dismissed some, and gave an order that the names of all prosecutors in future, (being policemen), should be returned to me, and that they should be prohibited from employing any solicitor without my sanction.

1322. The evil appeared to you a very flagrant one?—Very.

1323. Are there many of that class of practitioners at Stafford?—There were at that time many, and I believe there are some still; but I do not allow them now to interfere with the police.

1324. Do you think that the measures which you have taken have effectually prevented that?—I think they have, to a very great extent; still it is not a position which I like to be placed in, or in which I think I ought to be.

1325. So far as your experience goes, have there been prosecutions improperly brought for the purpose of extorting money?—I think there are prosecutions improperly got up. I think prosecutions are got up by thieves and tramps solely for the sake of receiving the money, particularly in towns.

1326. That is the result of your experience?—Yes.

1327. Mr. *W. Ewart.*] For extorting money?—We cannot call it extorting; but it is a species of swindling.

1328. Mr. *Miles.*] It is not extortion?—No, you cannot call it extortion.

1329. *Chairman.*] I suppose if a rogue got up a prosecution for the sake of his expenses, he would do so if he could, in order to be bought off?—I should say so.

1330. Such cases you say are not uncommon in your experience?—They are not uncommon, and the bills in these cases are very often ignored before the grand jury; they generally arise at lodging-houses, from one tramp or vagrant robbing another of a pair of shoes or a hat; in fact, I dare say I could show in

Captain *John H. Hatton.*

21 June 1855.

the calendar, connected with the county, 30 cases at quarter sessions, all arising out of thieving at lodging-houses.

1331. Is it not almost necessary, under the present system, that very great discretion should be vested in the police, they having very great power if they choose to exercise it?—Certainly.

1332. It is scarcely possible to prevent that, under the present system?—Just so; I take every means in my power to prevent abuse; I have all the returns sent to me, with the names of the prosecutors; and I do not allow a common constable to be bound over; in fact, I found that a great number were bound over, and sent as prosecutors; and I have given orders that the superior officers, in all cases where the magistrates think proper, should be bound over, and one man does for each district.

1333. Do you agree with the last witness that prosecutions frequently fail from the want of the evidence being properly brought before the court?—It sometimes happens; but clerks to the magistrates are generally experienced solicitors, or men versed in the law, so that the cases are generally well got up.

1334. And there the prosecutions are properly managed?—They are properly got up, and pains are taken with them; but in towns where there are trivial and trumpery cases, very often little pains are taken with them, and they are sometimes sent to the assizes, whereas they ought properly to be disposed of elsewhere; that swells our calendar.

1335. Does it ever happen to you to hear judges complain of the way in which cases are brought before them?—Many times; and I have heard also grand juries complain of the cases which have been sent before them.

1336. Mr. *Miles.*] When did you institute those inquiries with reference to Stafford, as to policemen being in connivance with low attorneys?—At the formation of the force.

1337. You are aware that a return of the result of the cases from Stafford on the last circuit has been put in?—Yes.

1338. Did you make inquiries immediately before that circuit?—I have all the returns, but I have not them here; fortunately I have one with me.

1339. What is the date of that?—One thousand eight hundred and fifty-one; I did not exactly know upon what I might be examined.

1340. *Chairman.*] Will you give us that?—April sessions 1850, guilty, 42; not guilty, 10; not true bills, two: total, 54. July quarter sessions, 123 guilty; 24 not guilty; eight not true bills: total, 155. July 18th, adjourned sessions (that is, prior to the assizes), 33 guilty; four not guilty; two not true bills: total, 39. July assizes, 46 guilty; 34 not guilty; six not true bills: total, 86.

1341. Forty escaped, and 46 were convicted?—Yes. October quarter sessions, 133 guilty; 11 not guilty; six not true bills: total, 150. December quarter sessions, 134 guilty; 15 not guilty: eight not true bills: total, 157. March adjourned sessions, 120 guilty; 10 not guilty; seven not true bills; total, 137. March assizes, 92 guilty; 37 not guilty: five not true bills: total, 134.

1342. That is, 42 acquitted and 92 convicted?—Yes. Total for the year, 723 convictions; 145 not guilty; 44 not true bills: total, 912. *Vide* Appendix.

1343. Mr. *Miles.*] Then, taking the whole course of criminal business in Stafford, though the acquittals as to the convictions stand very high in assizes, it is not the case in quarter sessions, is it?—No, it is not.

1344. Have you taken out the whole number of those convicted at quarter sessions and acquitted at quarter sessions in that return?—Yes.

1345. Will you give us the total convictions at quarter sessions, and the total acquittals at quarter sessions, and also at the two assizes?— *Vide* Appendix.

1346. Then the result of that is, that that table of yours in 1851 gives a very different aspect to the committals and acquittals than that presented to us by the last witness, does it not?—I cannot say. I have returns of all.

1347. Will you be kind enough to that to add the last return which you have?— *Vide* Appendix.

1348. *Chairman.*] Mr. Twamlow is still chairman, is he not?—He is. Perhaps it may appear strange that there are so many acquittals at the assizes; but there is an adjourned quarter sessions immediately before the assizes, and often trumpery cases are kept back and sent to the assizes.

1349. What is the motive for that, do you suppose?—The solicitors are not paid at our quarter sessions.

1350. Then

1350. Then it is for the sake of getting money that these frivolous prosecutions are brought at the assizes?—I believe so.

1351. That is quite transparent upon the face of it?—I have no doubt of it; it is done frequently.

1352. Mr. *Miles.*] Are there no briefs made out by attorneys at quarter sessions?—No, the clerk of the peace prepares all the briefs.

1353. Are counsel employed for the prosecution?—Yes, in every case; the clerk of the peace issues the briefs.

1354. Mr. *Attorney-General.*] That is the rule at Stafford?—Yes.

1355. The clerk of the peace prepares the briefs?—He prepares the indictment and brief.

1356. I suppose that consists in handing over the depositions?—No, there is a brief made out; the depositions are always with the chairman.

1357. Mr. *Miles.*] Is the clerk paid by a fee?—He is paid 13 *s.* 6 *d.* for each case.

1358. Mr. *Attorney-General.*] Are other attorneys excluded?—Except in particular cases; cases may arise where they think that it would require an attorney to watch the case, and in such cases an attorney is employed.

1359. Supposing a private prosecutor desired to employ an attorney, and did so, and that attorney prepared the brief for counsel; would he, in the ordinary course of things, be allowed for the preparation of that brief?—Yes, the bench invariably allow costs in such cases.

1360. Mr. *Watson.*] Is the scale of fees higher for prosecutions at the assizes than at the sessions?—No, it is the same scale; there is the same scale to witnesses.

1361. Mr. *Attorney-General.*] Then why should an attorney prefer going to the assizes?—Those are trumpery cases which are held over, such as stealing a bit of coal or a pair of old shoes, and robberies at lodging-houses; they are often kept back and sent to the assizes.

1362. If those cases came to the sessions, the magistrates would not allow an attorney?—No.

1363. Mr. *Watson.*] I suppose the chairman and deputy chairman of the sessions have long experience, have they not?—Very long; the present chairman 20 years, and the deputy chairman, I believe, about the same standing.

1364. Mr. *W. Ewart.*] Do they sift the cases more scrupulously than the judges; they understand local circumstances?—I dare say they do. I do not think it is very desirable that those paltry cases should be brought before the judges. I may be allowed to explain that it is not the fault of the police in keeping back those cases; but I beg to say that I think the police should have no interest in the prosecution; they ought to be amply paid, but not to have any interest in the prosecution.

1365. Mr. *Miles.*] Do you consider, then, that the police in Stafford are inadequately paid?—I think they are amply paid, as amply as any force in England, and that they are as efficient as any force in England.

1366. *Chairman.*] You think it is their duty, and that they should do their duty and not receive any extra allowance; you think they should be content with the fair salary which they receive?—No, I do not say that; but I think it would be better to pay the police in another way; of course, at present they are obliged to be paid out of the certificate of costs.

1367. At present they have a pecuniary interest in the prosecution?—They have to a certain extent.

1368. And you think that a bad thing?—I do. I think it better to pay them in another way.

1369. Mr. *W. Ewart.*] In what other way would you suggest that they should be paid?—I think it would be better if there could be some understanding about it; that an allowance should come direct from the county, so much a day for attendance, and that arrangement should be made for the amount allowed the police be paid over to the county; it is so in Staffordshire now.

1370. Mr. *Philipps.*] If I understand you rightly many offences occur for which there would be no prosecution instituted if the police did not take them up?—Unquestionably. In Staffordshire there is a large population, upwards of 600,000, which includes a moving population of tramps and vagrants. The greater number of the cases arise from mere stealing in lodging-houses, of which the police and parish constables take cognizance.

Captain *John H. Hatton.*

21 June 1855.

1371. They could not get back their things unless they prosecuted; I suppose that is their motive power?—I would go further than that, instances have come within my knowledge where parties have got up a prosecution themselves, one robbing the other. One wanted to go to gaol; he was labouring under disease; it was a good place for him to go for two or three months; he steals the property of one of his companions; he is apprehended, the property is sworn to, he is sent for trial; he, perhaps, pleads guilty, and gets a month's imprisonment or two, and comes out whole, and his companions get their expenses.

1372. Have you known many such cases?—I think many of them occur in Staffordshire. I happen to have a calendar in my pocket for Staffordshire (*producing the same*).

1373. Mr. *Watson.*] Is that for the assizes?—This is for the sessions.

Mr. *Robert Barr*, called in; and Examined.

Mr. *Robert Barr.*

1374. *Chairman.*] WHAT are you?—I am Clerk to the Justices at Leeds, in Yorkshire.

1375. How long have you been so?—I have been clerk and assistant clerk to the justices at Leeds nearly 40 years.

1376. During that time have you had opportunities of seeing a good deal of the administration of the criminal law?—A very great deal; probably as much as any man in the north of England; and in my early life I had, perhaps, the largest criminal business in my hands there.

1377. Are you in the same district as Mr. Markland?—Precisely; I am the clerk to the justices, and Mr. Markland is one of the gentlemen who take the papers when the magistrates have finished with them, in order to conduct the prosecutions.

1378. Did you hear Mr. Markland give his evidence?—I heard Mr. Markland give his evidence here on Tuesday last.

1379. He told us that in consequence of the abuses which were found to prevail, a different system had been set on foot; is that a correct statement?—That was so no doubt in 1842; upon which I made a report to the magistrates and to the council; and upon that report the appointment of Mr. Markland, and his coadjutor, Mr. Rawson, as public prosecutors, was made, and it has been continued down to the present time.

1380. In your opinion, has that system answered?—I am of opinion that the way in which the prosecutions from Leeds is conducted, both at the assizes and at the sessions, through the instrumentality of those gentlemen so appointed, is most satisfactory, and advantageous to the course of public justice.

1381. Has it put a stop to the evils which existed, which were mentioned in your report?—With relation to the evils which existed anterior to 1842, from the connexion between policemen and persons (with whom they appeared to be associated), which led to a strong supposition that the course of justice was not pure; that has been, I think, effectually cured.

1382. That evil has been removed?—That evil has been removed.

1383. In your opinion, but for that system, would it happen that a failure of justice would take place more frequently; for instance, from the want of getting sufficient evidence, and from the want of cases being accurately prepared?—I am of opinion that those gentlemen, from their constant experience in conducting all the cases proceeding from the borough of Leeds, have become perfectly familiar with the criminal procedure of the country and the legislation connected with it, and that they are now so experienced and so practised that there is every advantage to be derived from their services in the office of public prosecutor.

1384. In your opinion, might such a system as you have adopted at Leeds be beneficially adopted in other parts of the kingdom?—I think it might, though at the same time I do not wish, in giving that opinion, to say that I go the whole length of this Bill which I have before me.

1385. Do you think that the want of some responsible person to superintend the prosecution has a tendency to lead in some cases to a failure of justice?—I think it may have that tendency; and I think it is not possible to find generally professional men so thoroughly up to the mark and conversant with the

the criminal law as to enable them to conduct those prosecutions with so much efficiency as those gentlemen necessarily can do who are in the constant practice of taking these cases up, and who are always amongst them.

1386. Also, as to the purity of the administration of justice which you have mentioned; do you think that it also might lead to a purer administration of justice?—I think that the public eye is upon those officers. They are directly responsible to the bodies who appoint them, with whom they are in direct communication. These gentlemen must always be conducting themselves respectably, and discharging the duties which they have to perform efficiently, or they could not maintain their position.

1387. Are you acquainted at all with the Scotch system?—I am not, except from report.

1388. Mr. *Philipps.*] Do you know whether the average expense of prosecutions at Leeds is less than at other places similarly situated?—I am not able to answer that question.

1389. Mr. *W. Ewart.*] Has the number of convictions compared with acquittals increased since the introduction of this system of a local public prosecutor at Leeds?—My impression is, that if you get a return of the number of convictions and acquittals from the borough of Leeds for the last six years, it will be found, upon the average, that probably about 80 cases out of every 100 resulted in conviction.

1390. Can you give us any idea of what the proportion was before the alteration took place?—I am unable to answer that question.

1391. Mr. *Attorney-General.*] Through the medium of this system at Leeds, is any assistance given in getting up the cases for trial?—Not before commitment; but I think that the provision made in this Bill, if it could be carried out to that extent, would be a very considerable improvement.

1392. You think that there is still a defect in your system at Leeds, and that you ought to have somebody to superintend the getting up of the prosecutions?—Yes; and I felt that so strongly, that when the Criminal Justice Bill was introduced into the House of Commons, I wrote to the Chairman of that Committee, upon that subject, and I see the defect the more especially now that the justices out of session, namely, in petty sessions, are called upon to decide as to the guilt or innocence of juvenile offenders, which cases seldom go to the sessions; and it is proposed to give a more enlarged summary jurisdiction to the magistrates in petty sessions by the Criminal Justice Bill. I think it is exceedingly injudicious to throw upon the magistrates the entire responsibility of having these cases to investigate in the first instance, without having the slightest information as to the class of witnesses who are to come before them, or the facts they can prove.

1393. The magistrates have the discretion of sending the case for trial?—Yes.

1394. Lord *Stanley.*] Has the total number of prosecutions increased since you have adopted this new system?—I cannot answer that question accurately. Statistics of that description I have not investigated; and there has also been a very large increase of the population of the borough, which comprises a circuit of about 30 miles.

1395. Mr. *W. Ewart.*] From your general knowledge of the subject, do you consider that 80 convictions out of 100 cases is a good proportion?—I think that it is a very fair average proportion; and I think if statistics of that kind were examined, it probably would be found to be a large one; it is four out of five.

1396. Mr. *Watson.*] You said you had made a report in 1842?—Yes.

1397. Have you a copy of that report?—I have a draft of the report which I made in July 1842 on the subject of the appointment of a public prosecutor, and when I was appealed to in 1844 by the council of the borough of Leeds, and by the magistrates, to know in what way the duties had been discharged, I made another report of the 16th of April in that year; and I concluded in this way: "In conclusion I venture to say, that I shall not be surprised to find in a very short time the Legislature making some express provision with respect to the appointments of public prosecutors generally."

1398. The report in 1842 and the report in 1844 are the result of a long acquaintance with the subject, I believe?—In 1842 the report is upon the expedi-

Mr. *Robert Barr.*

21 June 1855.

ency of appointing a public prosecutor; and the report in 1844 is the result of the working of it.

1399. Mr. *W. Ewart.*] In consequence of the experience of the advantage of the system of public prosecution at Leeds, have any other towns in Yorkshire adopted the system?—Not, I believe, in Yorkshire, but the same system prevails at Liverpool and Manchester, where prosecutions are in the hands of official gentlemen, and conducted I believe under the direction of such persons representing those places.

1400. Can you tell us whether the same good results have arisen?—I cannot, except from communications made to me by gentlemen from those districts; I can give the opinion entertained by them; it is in consonance with the one which I have expressed. When I speak of public prosecutors, I mean the gentlemen who take the cases immediately after they leave the magistrates, and who take the entire charge of the prosecutions until the parties are disposed of upon their trial. I do not mean in that way to leave it to be inferred that I think it desirable to appoint public prosecutors, to have the conduct of the cases at the assizes and the sessions, in the office of advocate, with whom by this Bill I would not interfere. I wish to limit my opinion, and any recommendation I may be allowed to give, entirely to what is called in this Bill, a district agent.

1401. Mr. *Watson.*] Have you followed up the cases to the assizes, which have been sent from Leeds to York?—I have occasionally attended to prove examinations; but since the Municipal Act passed, 20 years ago, I have not had anything to do with the prosecutions themselves, because the clerks to the justices in boroughs are prohibited from taking a part in those prosecutions.

1402. Can you give the Committee any information with respect to the expense at York?—No; I have been there frequently on occasions of trials, but I have taken no part in them.

1403. You are aware that the York Assizes last generally a fortnight, and sometimes as long as three weeks?—I am.

1404. Does any inconvenience and expense arise by reason of the witnesses having to come twice to the assizes, namely, to go over before the grand jury, and to come afterwards to the trial?—I think arrangements have been made of late years by which that inconvenience has been removed. The facility of communicating with the most distant parts of the country, and the rapidity with which witnesses are brought up, render it now unnecessary for them to go to York before about the period when they are wanted, and so the business is despatched in that way much more regularly.

1405. You keep the grand jury longer, I believe, now than was the case formerly?—I am not aware that it is so; from about Monday to about Friday is the average time, or five or six days.

1406. Do you know anything with respect to the working of the system of sending down a taxing officer from the Government?—Not personally. I have been told by gentlemen that it has worked advantageously. I do not know it of my own knowledge.

1407. Mr. *Miles.*] In this report which you made to the magistrates at Leeds, you stated, did you not, that the more respectable part of the profession of attorneys did not agree with you in that report?—Yes. I believe in the first instance they viewed the appointment of those gentlemen as public prosecutors as interfering with their legitimate professional duties.

1408. Mr. *W. Ewart.*] Are you speaking of the first report?—I am speaking of the report upon the working of the system from 1842 to 1844.

1409. Mr. *Miles.*] Is it your opinion that if the prosecutions were left in the hands of the highest class of attorneys, there would be no necessity for these district agents?—If it were possible to transfer to the higher class of professional men the conduct of prosecutions, there could be no objection whatever, and they would perform the functions of public prosecutor in the sense I use that term; but I believe that to be practically impossible, because I think it can never be worth the while of respectable men to go either to the quarter sessions or to the assizes to conduct one or two cases; inasmuch as the allowance of costs must be wholly inadequate to compensate them for any services which they would have to perform.

1410. Supposing you were to alter it in this way, to give the committing magistrates the power of appointing an attorney, which attorney should be paid proper

proper costs; do you not think that it would entirely supersede the necessity of this public prosecutor?—That is the system at present in existence. The magistrates at Leeds have already appointed since 1842 the very men; but embracing a considerable number of prosecutions; viz. the whole of which emanate from the borough of Leeds.

1411. I am now speaking as to the whole country?—I can only speak of what the probable effect would be in the whole country, from my experience of what has been passing within my own immediate district; but I think the system or principle is a very desirable one to adopt.

1412. If what I have now suggested to you were adopted throughout the whole of the country, namely, if the magistrates who commit had the power of ordering a prosecution, and taking care that the brief was prepared by an attorney of respectability, do not you think it would do away with the necessity of the whole host of officers?—I think it would do away with the necessity of many officers who are spoken of in this Bill. I do not think it is by any means desirable to appoint that mass of officers. I think the machinery of this Bill may be very much simplified, and that the 10th section of this Bill, with some additions, would carry out all my views efficiently.

1413. You conceive that by adopting the 10th section we should do almost all that was necessary for the furtherance of public justice?—I think the 10th, 11th, and 12th sections might be so combined into one section as efficiently to vest in respectable men the power of conducting those prosecutions, without the necessity of a public prosecutor, in the sense in which the term public prosecutor is used in this Bill; that is to say, that they shall simply take the charge of the prosecutions from the magistrates' hands, with the depositions; and that they shall have thrown upon them the responsibility of making out the briefs and examining the witnesses, if any extra witnesses should be necessary, as frequently arises. I know very well that in numerous cases it becomes indispensably necessary for a gentleman to take up the depositions, and carefully to look them over and supply these deficiencies, which cannot always be supplied before the magistrates. Events frequently arise afterwards; therefore, in speaking of that class of men, I say that they would be perfectly competent to take the charge of the case when it came out of the hands of the magistrates, and to carry it through to the assizes or to the sessions, prepare proper briefs, and put them into the hands of counsel.

1414. From your knowledge of the profession, generally speaking, interspersed throughout the country, do you think there would be any difficulty in getting men adequately to perform those duties?—None whatever.

1415. Mr. *Attorney-General.*] Then instead of having an officer for each district, you would have a number of attorneys?—Under that system it necessarily would devolve upon a number of attorneys.

1416. You would have a number of attorneys appointed by the magistrates?—I am not looking to the magistrates particularly as the parties concerned; they may be appointed by the magistrates, or they may be appointed by other functionaries.

1417. What functionaries?—Councils of boroughs amongst other bodies or functionaries may do it; the council of the borough of Leeds does it conjointly with the magistrates.

1418. Let us confine ourselves to the county?—I should very much doubt whether you would be able in that case to get any proper appointment made, other than through the magistrates in their sessions.

1419. You think that the Government would not be competent to make such appointments?—The Government, I think, would be quite competent to make such appointments, but they would want a great deal of information, which ultimately, I think, must proceed from the magistrates themselves or other local bodies.

1420. Information as to what?—As to the fitness and qualifications of persons on the spot.

1421. You think they could not get that, except through the magistrates?—I think they would get it best from local bodies, but not necessarily and exclusively so.

1422. As I understand you, you propose that instead of there being district agents for districts, each petty sessional division shall recommend a person who

Mr. *Robert Barr.*

21 June 1855.

shall conduct the prosecution?—I do not know as to each petty sessions, for I think that would lead to a great many appointments, and probably too many.

1423. When you say that the magistrates shall appoint, how many magistrates do you think should appoint?—That must necessarily depend upon the size of the district; take the whole of the West Riding of Yorkshire.

1424. Would you appoint one man for the whole of the West Riding?—I think it would be perfectly impracticable for any single gentleman to transact the whole of such business of the West Riding; but I think that the magistrates of the West Riding might appoint at quarter sessions, or at special sessions in their respective divisions, a competent number.

1425. It comes practically to this, you would desire to have agents established for particular districts?—That is my view of it.

1426. Then you would not have each petty sessional division of magistrates appoint a solicitor to conduct the business for that particular division?—I think the course I have suggested already would be desirable.

1427. But you would have the country divided into districts, and have an attorney appointed for each district to conduct all prosecutions?—That would appear to me the only feasible way in which it could be done, viz. in districts, divisions, or boroughs.

1428. As I understand you, the difference between your scheme and that of the Bill of our Honourable Chairman is, that whereas he proposes one mode of appointing these district agents, you would have them appointed by the magistrates?—No, there is a great difference still; when I speak of appointing agents, or in other words, public prosecutors, I mean that their functions shall cease the moment they have their brief ready for counsel, who shall then take the conduct of the case; whereas the public prosecutor, by this Bill, is the person to conduct the prosecutions at quarter sessions or assizes as an advocate.

1429. The district agent is only to act as an attorney?—Merely to do what an attorney is doing throughout the country, and what is done at Leeds, except as I have already suggested, more enlarged powers for assisting in the investigation of cases before justices.

1430. Then the difference between your scheme and that of our Chairman is, that whereas he proposes to leave the appointment in the hands of the Government, you propose that it shall be done by the magistrates?—Yes.

1431. So far as that district agent is concerned?—Yes.

1432. Mr. *W. Ewart.*] Are you aware that in Scotland the procurator fiscal, who is like or nearly like the district agent in this Bill, is appointed, in many cases, by the town council in the boroughs of Scotland, as also by the sheriff?—I am not aware of that.

1433. *Chairman.*] You have not turned your attention to that?—I have not.

1434. Mr. *Philipps.*] Supposing the clerk of the petty sessions were employed to conduct the prosecution, do you think that the fear of the discredit which would attach to a failure of conviction would be quite sufficient to prevent him from doing it improperly?—I am very much inclined to think that the clerk to the justices in petty sessions is not the man to conduct such prosecutions; I think he should not be exposed to the imputation of having cases to conduct at assizes and sessions, and at the same time be the adviser of the justices who commit the prisoners for trial.

1435. You think those functions should be kept distinct?—If not kept distinct, I think every clerk to the justices should be upon a fixed salary.

1436. Mr. *Miles.*] You have given us your views relative to the appointment of the district agent; as I understand, you do not concur in any other parts of the Bill?—I do not carry my views beyond the appointment of competent and respectable men to assist in conducting these cases to the point at which the briefs would pass from their hands into the hands of counsel, or, in other words, adopting the system which prevails at present at Leeds, with the additional powers to which I have referred, except that I would have those gentlemen appointed by proper functionaries, and responsible to them for the performance of their duties.

1437. *Chairman.*] In short, you do not think any other system feasible than that which you have mentioned?—I do not think that it is not feasible, but I think one is preferable to the other.

1438. Have you considered the Irish system?—No.

1439. Have

Mr. *Robert Barr.*

21 June 1855.

1439. Have you considered the Scotch system?—No.

1440. Have you considered the French system?—No.

1441. Have you considered the system of any other country besides this?—No.

1442. And your experience is derived from what has happened at Leeds?—My experience is derived from 40 years' practice and observation.

1443 Mr. *Watson.*] You have experience, in fact, of a public prosecutor?—My duties have made me familiar with such officers.

1444. Mr. *W. Ewart.*] They are public prosecutors, so far as your experience extends?—Yes.

Captain *John H. Hatton*, called in; and further Examined.

Captain *John H. Hatton.*

1445. *Chairman.*] AM I right in saying that in 1852 there were from Stafford 192 persons prosecuted at the assizes?—Yes.

1446. That that cost the county 3,686 *l.*?—Quite so.

1447. That would be at the rate of 19 *l.* a head?—Yes.

1448. Am I right in saying that there were 769 prosecuted at sessions?—Yes.

1449. That it cost the county 5,582 *l.*?—Yes.

1450. And that that would be 7 *l.* a head?—Yes.

1451. That in 1853 there were 144 prosecutions at the assizes, and that it cost the county 3,173 *l.*?—Yes.

1452. Being at the rate of 21 *l.* a head?—Yes.

1453. Seven hundred and five at sessions?—Yes.

1454. Which cost the county 5,579 *l.*?—Yes.

1455. Being 8 *l.* a head?—Yes.

1456. In 1854 were there 182 prosecuted at the assizes?—Yes.

1457. Which cost the county 2,994 *l.*?—Yes.

1458. Being at the rate of 16 *l.* a head?—Yes.

1459. Eight hundred and thirty-one at sessions?—Yes.

1460. At a cost of 5,894 *l.*?—Yes.

1461. Being at the rate of 7 *l.* a head?—Yes.

1462. So that you have never prosecuted anybody at the assizes for less than 16 *l.*?—No, not in those three years. Would you allow me to explain a circumstance connected with the police of Staffordshire. It is impossible that there can be any fraud practised upon any witnesses there. I have a person totally disinterested, who receives all the money, has a room to himself, and every witness is called in, signs his name, and is paid by him.

1463. Not by the attorney?—Nor by the police, when prosecutors.

1464. You take care that it shall be done by a confidential person chosen by yourself; that the money shall pass through his hands to the witness?—Yes; it is paid not as it used to be; the prosecutors used to get the signatures of the witnesses, go into the bank, draw the money, and then deal with them as they pleased.

1465. Then there are many cases in which you would not consider it safe to entrust the attorney who conducts the prosecution with the task of paying the witnesses?—I had heard a great many complaints that witnesses were not paid by prosecutors, and I was therefore obliged to adopt the present system.

1466. Do you think it safe that a person should be entrusted with the management of a prosecution who cannot be entrusted to pay the witnesses?—Certainly not.

1467. Mr. *Miles.*] Do you pay the expenses in every case, or only in those cases in which the police are concerned?—Only those cases in which the county police are concerned.

Mr. *Hamilton Richardson*, was called in; and further Examined.

Mr *H. Richardson.*

1468. *Chairman.*] Have you a return to deliver in?—Yes. I have had returns analysed in the form in which I said I would.

[*The Witness delivered in the following Paper:*]

Mr. *H. Richardson.*

21 June 1855.

BOROUGH OF LEEDS, IN THE COUNTY OF YORK.

A RETURN of the Number of Persons Tried, or Bills against whom were Ignored, for the Borough of *Leeds*, in the County of *York*, with the Number Acquitted and Convicted, between the Christmas General Quarter Sessions 1839 and the Michaelmas Quarter Sessions 1842, being Three Years immediately preceding the Appointment of Public Prosecutors for the said Borough; and also the like RETURN for the Three Years immediately succeeding the Appointment of Public Prosecutors.

Year ending Michaelmas.	Number of Bills Ignored.	Number of Acquittals.	Number of Convictions.		Total Convictions.	GRAND TOTAL.
			Pleaded Guilty.	Found Guilty.		
1840 - -	20	48	91	116	207	275
1841 - -	21	72	98	151	249	342
1842 - -	18	81	87	116	203	302
	59	201	276	383	619	919
1843 - -	5	69	41	164	205	279
1844 - -	19	64	52	106	158	241
1845 - -	15	51	30	97	127	193
	39	184	123	367	490	713

TOTAL CASES finally disposed of at Sessions in the Three Years immediately preceding the Appointment of Public Prosecutors.

Bills ignored - - - - -	59	
Acquittals - - - - -	201	
		260
Pleaded guilty - - - - -	276	
Found guilty - - - - -	383	
		919

Or, Bills ignored and acquittals, 28·3 per cent.
Pleaded guilty - - 30 „
Convictions on trial - - 41·7 „
100

TOTAL CASES finally disposed of at Sessions in the Three Years immediately following the Appointment of Public Prosecutors.

Bills ignored - - - - -	39	
Acquittals - - - - -	184	
		223
Pleaded guilty - - - - -	123	
Found guilty - - - - -	367	
		713

Or, Bills ignored and acquittals, 31·28 per cent.
Pleaded guilty - - 17·25 „
Convictions on trial - - 51·47 „
100

Mr. *Samuel Johnson Roberts,* called in; and Examined.

Mr. *S. J. Roberts.*

1469. *Chairman.*] WHAT are you?—A Solicitor in Chester.

1470. How long have you practised?—Upwards of 35 years.

1471. Have you had much experience during that time in criminal business?—I have had a large experience.

1472. In your opinion does it happen that an attorney is called upon to advance money for prosecutions?—Never, except in this way; that occasionally after the magistrate's certificate is given, which we consider as practically cash, we pay the witnesses, if they are in indigent circumstances, the sum which is allowed them.

1473. Is it within your experience that an attorney has been sometimes refused his expenses by the judge, and has been out of pocket?—Never where the prosecutor has been bound over to prosecute.

1474. You never knew of such a case?—Never.

1475. Do you believe that that may exist where an attorney may be called upon to advance money for the sake of properly getting up a prosecution?—No, because in weighty cases the judge usually directs an extra allowance beyond the stated scale.

1476. You do not think that possible?—No; the scale is so strictly and plainly defined, that I think he cannot err if he is a man of common prudence.

1477. Then

1477. Then you differ with the witnesses who have been examined to-day, who tell us that it is very commonly the case?—I have never met with it.

1478. Mr. *Miles.*] Have you looked at this Public Prosecutors Bill?—I have.

1479. Do you assent to the provisions in that Bill generally?—I think that a great alteration is requisite in reference to the criminal practice of the country, and that it would be mainly met by making the magistrates' clerks independent of the motive which they have in conducting prosecutions.

1480. Do you mean by that, by the payment of salaries instead of fees?—I do, by preventing them, in short, upon the principle of the Municipal Act, from conducting prosecutions at all.

1481. Do you think that with that alteration the prosecutions would be better conducted, and conducted more often to conviction than they are at present?—I do not think that particularly, but I think that considering the motive (I am speaking of my own profession of course) and habits of magistrates' clerks, conducting as a matter of course, which they almost always do, the prosecution, it is a temptation with the profession to multiply prosecutions unnecessarily, and I have very frequently seen it.

1482. And you think that an alteration of the mode of payment, namely, the payment of salaries instead of fees, would obviate that?—To a large extent.

1483. Would you make any other alteration?—I think that some governing power is wanted, particularly in thinly-populated districts, such as Wales, where I think a great failure of justice often occurs from the want of a particularly close police inspection; and that from the parties knowing each other, and being on intimate terms, they are bought off. I do not mean pecuniarily, but by friendly influences, they are induced to give up prosecutions.

1484. How would you meet that case?—I think, in those cases, from a public prosecutor a great advantage would result.

1485. Mr. *Attorney-General.*] What do you mean by a public prosecutor?—There must be some person with a control to see that where a crime is committed it is brought to justice, and that no sinister influences are allowed to prevent its being brought to public justice.

1486. Do you mean that that should be in the hands of the magistrate's clerk?—I doubt that.

1487. You before suggested that a change should be made in the position of magistrates' clerks; and I understood you to say that that was all you thought necessary?—No. I think that if the magistrate's clerk were quite independent of the question of prosecutions, it would place him in a higher position with reference to the administration of justice than he is now in, when he has a personal interest in conducting them.

1488. Mr. *Miles.*] Whom would you put intermediately between him and the court?—I think that it would be highly desirable that there should be a recognised agent for conducting the prosecutions of every petty sessions; or, in order to avoid the multiplication of officers, one person (which could be the case where the population is not very thick), comprising a hundred of a county.

1489. Then that would be a person almost representing what the district agent would?—Exactly so.

1490. Have you heard the examination which has taken place to-day as to the boroughs?—I have.

1491. Do you think that that would be a good person to put between the magistrate's clerk and the court?—I think that such a person would be desirable in boroughs; from my own experience I know that the law is practically violated perpetually.

1492. Mr. *Attorney-General.*] In what respect?—In reference to the Municipal Act; the Municipal Act, as you well know, prevents a magistrate's clerk from conducting prosecutions; but it is done as directly as if it were done by himself.

1493. It is still done notwithstanding that provision?—It is still done in defiance of all that.

1494. *Chairman.*] The Act is evaded?—It is practically evaded; I know a case (and perhaps the Committee will excuse me mentioning names) where a dissolution of partnership took place in order to enable the partner to conduct the prosecution whilst the original person continued clerk to the justices, the business being practically done by the same person who had done it before, and that person conducting the prosecutions.

Mr. S. J. Roberts.

21 June 1855.

1495. Mr. *W. Ewart.*] Is that a single instance, or do you think it a specimen of other instances?—I do not know whether the same means are taken to obtain the same end, but I know that the same practice exists at other places.

1496. Mr. *Miles.*] How would you pay your district agent; would you pay him by salary or by fees?—I think that he would be amply paid, from my own knowledge of the emolument for a prosecution, by the county allowance, inasmuch as I see that the most respectable men in the profession are now contented with it.

1497. Mr. *Attorney-General.*] Do you not think that it would be better to pay him a salary, so as to give him no motive for multiplying the prosecutions?—I should say so, if he had any control in seeing which case should be carried on and which should not; but if the responsibility of that rested with the magistrates, then I would let him take the county allowance.

1498. Mr. *Miles.*] Do you conceive that in all parts of the country gentlemen eminent in their profession as solicitors and attorneys would be willing to accept that payment, and to conduct the prosecution to a conviction, or to an acquittal? I have not the least doubt of it, inasmuch as they do it now in my county to an almost universal extent.

1499. Mr. *Attorney-General.*] Supposing a gentleman to be appointed to conduct the prosecutions in a district, which is what you say you think desirable, would not his time be quite sufficiently occupied if devoted exclusively to the conduct of those prosecutions?—No; a question was put in the early part of the day with reference to magistrates taking depositions at their own houses, which is a very common practice, even though the same person who takes those depositions may not be their petty sessional clerk. If the cases were heard before magistrates' pretty much upon the plan that they are now in boroughs on stated days, then the time of the attorney would not be so fully occupied as to absorb it, and prevent a respectable man thinking it worth his while to conduct the prosecutions.

1500. You are not speaking of magistrates' clerks now?—No; I would prevent the magistrates' clerks doing it. I refer to a district officer to conduct the prosecution, independently of the magistrate's clerk.

1501. Do you contemplate that a gentleman appointed for the whole district, with the number of cases which would come before him, should also practise his own profession, independently of that?—Yes; I think that no man of standing and mature ability will ever be found who will abandon his general practice merely to conduct prosecutions. I see that the Bill proposes three years. I think a man is totally incapable of conducting important prosecutions of that standing only in the profession. I think that you would not get men who are really competent to conduct prosecutions properly, whose sole business it should be, unless a salary were given, such as I think ought not be given, and need not be given.

1502. You would give a salary commensurate to the services performed?—Exactly so.

1503. If you took up the whole of a respectable man's time to conduct the prosecutions of a district, you would pay him a salary equal to the services which you demanded of him?—I think it would not require any respectable man's time, except in peculiar cases.

1504. *Chairman.*] Surely the mere mechanical process of being in court would occupy a very large amount of time sometimes, though the intellectual labour might not be very great?—In a very large and populous district it would be so.

1505. Mr. *Miles.*] As I understood you, the proceedings would go on precisely as they do now, up to a certain point; the magistrates would take the depositions, the magistrate's clerk would be there; if they committed the man, then the depositions would go before the district agent?—Exactly so.

1506. So that all the preliminary part would have been done to his hand?—Exactly so.

1507. All that he would have to determine would be, whether upon those depositions there was evidence enough to convict the man; if not, he would have to seek for other evidence?—Whether it was a case which ought fairly to go before the grand jury.

1508. And that, with a gentleman who has been seven or eight years in his profession, would be no difficulty whatever, and would scarcely interfere with his private business?—I think it would not, in most districts.

1509. Mr.

1509. Mr. *Watson.*] Upon the question of salaries and fees, although you had a very respectable gentleman who was carrying on a very good business, there might be some little inducement to increase the expense of a prosecution, if he were paid by fees?—He could not do so, because the scale is so closely prescribed that all motive has gone by.

1510. Supposing the magistrates had committed, and it was necessary to get up a good deal more evidence, he must be paid for finding out that evidence, and bringing it to the assizes or sessions wherever it might happen to be, and he would charge for it?—He does not now, nor to my knowledge does he receive anything for it.

1511. Is he paid for the brief?—The brief is limited to a small sum, to a guinea, in all ordinary cases at sessions.

1512. At the sessions?—At the county and at our city sessions.

1513. Have you the scale of fees for the expenses of prosecution at the sessions and assizes in Cheshire?—I have not got a printed bill; but I have a bill copied from one for the assizes. There is a printed one for the city *(producing the same)*.

1514. These are the expenses allowed for the city prosecutions?—Yes, in all ordinary cases.

1515. Have you either a printed or a written statement of the expenses allowed in prosecutions in the county of Cheshire?—I have, and this is it *(producing the same)*.

[*The Witness delivered in the following Papers:*]

PROSECUTIONS, CHESTER.

COSTS of Assize and Sessions Prosecutions from 1850 to 1854, both inclusive.

ASSIZES.					SESSIONS.			
		£. s. d.	Totals. £. s. d.			£. s. d.	Totals. £. s. d.
1850: Year ending 10 October.	Prosecutions at assizes -	4,146 17 3		1850 -	Prosecutions at sessions -	6,581 8 -	
	Marshall's fees, &c. -	269 18 2	4,416 15 5		Constables attending as witnesses - - -	530 2 2	7,111 10 2
1851 - -	Prosecutions at assizes -	3,881 - 2		1851 -	Prosecutions at sessions -	7,948 8 9	
	Marshall's fees, &c. -	241 11 10	4,122 12 -		Constables attending as witnesses - - -	632 2 2	8,580 10 11
1852 - -	Prosecutions at assizes -	4,833 9 8		1852 -	Prosecutions at sessions -	7,901 8 4	
	Marshall's fees, &c. -	299 8 2	5,132 17 10		Constables attending as witnesses - - -	666 13 3	8,568 1 7
1853 - -	Prosecutions at assizes -	4,483 12 5		1853 -	Prosecutions at sessions -	7,954 17 9	
	Marshall's fees, &c. -	274 - 10	4,757 13 3		Constables attending as witnesses - - -	658 17 8	8,613 15 5
1854 - -	Prosecutions at assizes -	3,013 4 3		1854 -	Prosecutions at sessions -	8,990 14 5	
	Marshall's fees, &c. -	223 6 4	3,236 10 7		Constables attending as witnesses - - -	840 4 6	9,830 18 11
		£.	21,666 9 1				42,704 17 -

Note.—The Sessions Prosecution Costs are exclusive of 80 *l.* a year payable to the clerk of the peace for arraigning and discharging prisoners.

	£. s. d.
Gross Cost of Prosecutions at Assizes, including Marshall, Crier, and Clerk of Assize Fees - -	21,666 9 1
Gross Cost of Prosecutions at Sessions, including Constables' attendance as Witnesses - - -	42,704 17 -
	64,371 6 1

AMOUNT Paid for Prosecutions at Sessions and Assizes in the County of *Chester*, taken from the Published Accounts.

SESSIONS.		£. s. d.	ASSIZES.		£. s. d.
1850	For the year ending 10th October - -	7,111 10 2	1850	For the year ending 10th October - -	4,416 15 5
1851	- - ditto - - ditto - - - -	8,580 10 11	1851	- - ditto - - ditto - - - -	4,122 12 -
1852	For the year ending 29th September - -	8,568 1 7	1852	For the year ending 29th September - -	5,132 17 10
1853	- - ditto - - ditto - - - -	8,613 15 5	1853	- - ditto - - ditto - - - -	4,757 13 3
1854	- - ditto - - ditto - - - -	9,830 18 11	1854	- - ditto - - ditto - - - -	3,236 10 7
	Total - - - £.	42,704 17 -		Total - - - £.	21,666 9 1

CHESHIRE.

Copy Bill on Prosecution for Felony, received by me in London 15th June 1855.

Assizes 1854.

The Queen, on the prosecution of

Against

For

	£.	s.	d.
Expenses attending examining before magistrates, as per certificate - -			
Instructions for indictment - - - - - - - - - -	-	6	8
Paid for indictment and breviate - - - - - - - - -			
Paid for certificate of prior convictions (when necessary) - - - -	-	6	8
Paid agent's charge and correspondence - - - - - - -	-	6	8
Paid swearing witnesses and discharging recognizances; crier's fees - -			
Paid bailiff of grand jury, with indictment - - - - - - -	-	2	6
Examining witnesses, and taking instructions for brief - - - -	-	6	8
Drawing brief in ordinary cases - - - - - - - -	1	1	-
Fair copy - - - - - - - - - - - - -	1	1	-
Paid Mr. and his clerk - - - - - - - - -	2	4	6
Paid Mr. and his clerk, where two briefs are allowed - -			
In cases of extraordinary length and importance, when the brief exceeds 10 sheets an extra charge may be made, and extra fees paid to counsel, to be fixed by the proper officer, accompanied by a special note, stating the number of sheets contained in the brief, and that the extra allowance is reasonable - - - - - - - - - - - - -			
Paid clerk of assize and clerk of arraigns - - - - - - - - -			
Attorney attending court, if resident, 13*s.* 4*d.* per diem, and if non-resident, 1*l.* 1*s.* per diem, up to and including the day of trial - - - -			
When the attorney is employed in more than one prosecution, he is to be allowed one half only of the foregoing charge for his attendance in each case, but so as not to receive less than one guinea per day, nor to charge for time in more than one prosecution against the same prisoner - -			
No charge to be made for time in more than six prosecutions.			
Attorney, for time and expenses of travelling, 6*d.* per mile to and from Chester, where the distance travelled does not exceed 20 miles; but where it exceeds that distance, then he is to be allowed his actual coach-fare or railway-way-fare; but in the event of there being no public conveyance, he is to be allowed 6*d.* per mile to and from Chester, whatever the distance travelled, except he be resident in another county, in which case the mileage is to be calculated from the confines of this county only - - - -			
No allowance whatever for time, mileage, or travelling expenses to be made to any attorney, except on the appearance of himself, or an efficient clerk to attend to his particular cases only.			
Paid for subpœna - - - - - - - - - - - - -			
Service, 6*d.* per mile, and copies - - - - - - - - -			
Expenses of witnesses, including constables and police officers; if resident, 3*s.* per day; if non-resident, 5*s.* per day, to be charged in one indictment only - - - - - - - - - - - - - -			
Mileage			

	£. s. d.
Mileage for travelling expenses of witnesses to and from Chester, 4*d.* per mile each way, where the distance travelled does not exceed 20 miles; but where it exceeds that distance, then the prosecutors and witnesses are allowed their actual expense of coach-fare or railway-fare, with reasonable expenses for maintenance on the road not exceeding 3*s.* per day; but in the event of there being no public conveyance, witnesses to be allowed 4*d.* per mile each way for expenses and mileage, whatever the distance travelled - - - - - - - - - - - - - - -	
Attorneys attending as witnesses only, and medical and other professional men, to be allowed one guinea per day for their attendance, and the same mileage as in the cases of attorneys attending to conduct prosecutions, to be calculated from their respective residences - - - - - - -	
Paid for order, 1*s.*; prosecutor, 6*d.* each witness to clerk of assize - -	
Paid bailiff attending jury in cases where they retire to consider their verdict, 2*s.* 6*d.* - - - - - - - - - - - - - -	
£.	

The Scale of Fees under Municipal Act.

Borough and City of Chester to wit. } Quarter Sessions.

The Queen on the Prosecution of
against

An Account of Costs and Expenses craved by the Prosecutor.

DEDUCT. £. s. d.		£. s. d.
	Attending prosecutor, and taking instructions for indictment -	- 6 8
	Attending to leave the instructions for the indictment with the clerk of indictments, and afterwards for the indictment -	- 3 4
	Paid for indictment - - - - - - - - -	
	Certificate of prior conviction - - - - - - -	
	Paid bailiff of the grand jury with indictment - - - -	- - 6
	Paid swearing witnesses; prosecutor 1*s.*, each other witness 6*d.*	
	Examining witnesses, and taking instructions for brief - -	- 6 8
	Drawing same, 13*s.* 4*d.*, or 8*d.* per folio; but not exceeding 1*l.*	
	Fair copy for counsel, 4*d.* per folio; not exceeding 10*s.* - -	
	Paid counsel - - - - - - - - - - - -	1 1 -
	His clerk - - - - - - - - - - - -	- 2 6
	Attorney attending court, if resident, 13*s.* 4*d.* per day, days	
	Ditto, if engaged in more than one prosecution, 6*s.* 8*d.*, days	
	If non-resident, 1*l.* 1*s.* per day - - - - - - - - days	
	If more than one, 10*s.* 6*d.* per day - - - - - - - days	
	Expenses of witnesses resident, 3*s.* 6*d.* per day* - - days	
	If more than three miles distant, 4*d.* per mile each way for travelling expenses, in going to and returning from court (in one case only) - - - - - - - - - - -	
	If detained all night, and non-resident, in addition, per night 2*s.* 6*d.*, nights - - - - - - - - -	

(*continued*)

* The expenses of the superintendent of police and inspector (if witnesses) are not to be recognised by the attorney.

Mr. *S. J. Roberts.*

21 June 1855.

DEDUCT. £. *s.* *d.*		£. *s.* *d.*
	Arraigning prisoner, recording verdict, &c. - - - -	
	Order for costs - - - - - - - - - -	– 1 –
	Calling, swearing, and counting jurors - - - - -	– 4 –
	Abstracting indictment for recorder - - - - -	
	Witnesses before grand jury, 6*d.* each - - - - -	
	The like in court, 1*s.* each - - - - - - - -	
	Sixpence on each Witness, order for expenses - - -	
	Subpœna - - - - - - - - - - - -	
	Taxing and allowing costs - - - - - - - -	– 2 –
	Costs prior to conviction, as allowed by magistrates' certificate -	
	Filing ditto - - - - - - - - - - -	
	Discharging recognisances - - - - - - - -	– 3 6
	Order for gaoler - - - - - - - - - -	
	£.	

Note.—No witness to be allowed upon more than one prosecution on any one day, although he may be a witness on several.

All prosecutors and witnesses who receive salaries or wages from the town council are to be allowed not more than 2*s.* per day for attendance in court and before committing magistrates.

But nothing to be allowed for costs of attendance before magistrates previous to commitment in felony, unless upon the production of the committing magistrates' certificate.

*** The charge for time not to be made on more than one prosecution against the same prisoner.

1516. How long has this scale of fees been in use in the city of Chester?—Ever since the Municipal Act came into operation.

1517. That does not apply to the county?—No.

1518. In the county, how long has it been in operation?—I cannot say with certainty, but the scale has been very much reduced in the county, and that is the lowest scale now acted on.

1519. You have stated that these are in ordinary prosecutions?—Yes.

1520. There are, of course, extraordinary prosecutions?—There are.

1521. Some require a great deal of time and trouble, and to search out fresh evidence after commitment?—Yes.

1522. I presume that that is to be taken into consideration by the proper taxing officer?—That is taken into consideration by the recorder or the judge of the court.

1523. That is to say, whether there is to be an extra allowance beyond this scale?—Exactly so.

1524. Is the recorder the person who taxes the costs?—No; he gives directions to the clerk of the peace that in a particular case he sees reason for an extra allowance, and he gives a general notion of what he thinks should be the extent of that extra allowance. I had a case at the City Sessions only a very few weeks ago, in which the allowance came to 80 *l.*; it was a very weighty and important prosecution.

1525. Are there also extra allowances in the county as well as in the city of Chester?—Yes, but they do not often occur in the county. Murder cases, and cases of that description, I have known cost 300 *l.* or 400 *l.*

1526. Do you not think, under all those circumstances, looking to the fact that there may be extra charges and allowances made, that it would be better to pay professional men by salary rather than by fee?—It would, if it were possible to ascertain fairly what should be the amount that a man ought to receive in a particular district, but that would be exceedingly difficult. For instance, if you appointed a public prosecutor in Wales and appointed him at a salary, such as

such as a competent man would require, it would amount to very nearly the entire cost of the prosecutions of that district.

1527. Take a part of your own county, Birkenhead, which is a populous part, and where there is a great deal of low population and a great deal of crime; there the public prosecutor might be paid by salary?—I think so; and in Stockport and the northern division of Cheshire.

1528. The city of Chester is under the Municipal Corporation Act?—Yes. I beg leave to direct the attention of the Committee to what I think will show them the importance of the point which I put to them in reference to avoiding the multiplication of prosecutions. I hold in my hand a table prepared from the published accounts of the county of Chester, showing from 1850 to 1854, which will be five years, the cost of prosecutions at assizes and at sessions, which is almost appalling. With a view to prevent impositions as to charges for witnesses, their expenses are put distinct from the general costs of prosecutions, that is, as to sessions' prosecutions. That table is for eight sessions, four quarter sessions and four intermediate sessions. Upon an average, at our borough sessions, a prosecution costs from 6 *l.* to 8 *l.*

1529. Is the city of Chester a county of itself?—Yes; but there is a recorder, and it is a borough.

1530. Do the judges hold assizes there?—They sometimes do, but there is no business done. I noticed, when I was here last week, the question particularly mooted by the Committee, and I have heard it mentioned to-day also by one or two gentlemen, with reference to making police officers prosecutors. I have seen it done frequently, in defiance of the wish of the actual prosecutor, and from a very obvious motive, to enable the magistrate's clerk to get up the prosecution.

1531. Mr. *Miles.*] You would obviate that by a direct enactment?—Yes, most stringently.

1532. Preventing any policeman or constable from being the prosecutor?—Yes.

1533. And that, from your knowledge of what has occurred, is the only way of obviating the evil?—Yes, because I cannot conceive it can ever be that there should be, in any case of a flagrant crime, a deficiency of a prosecutor, independently of a policeman.

1534. Mr. *W. Ewart.*] Would you allow a policeman in small cases?—I would not allow him in any cases to be public prosecutor.

1535. Mr. *Watson.*] He is a zealous man at any time to convict, I suppose, and becomes ten times more so if there is any emolument?—Yes. In our county the policemen are not paid for any duties which they perform except out of their districts; it is to avoid the temptation to their being improperly zealous in the performance of their duties; but I find that, in practice, almost every policeman takes care to have cases at the assizes; it is a kind of public occasion, on which they meet each other and enjoy themselves.

1536. He generally combines the office of policeman with that of witness I believe?—Exactly so; for the very purpose, he takes care to make himself a witness either for confession purposes or otherwise.

1537. Mr. *Attorney-General.*] And also as inquisitor, because he generally asks questions of the prisoner under confinement, and proves his statement upon the trial?—Yes.

1538. Mr. *Philipps.*] Captain Hatton stated, that in all the cases where the police constables were the prosecutors, there would be no prosecution at all if they did not prosecute, and that that was the reason why they were employed as prosecutors?—My experience is quite the contrary. I do not know that I have ever seen a policeman made prosecutor when it has been actually requisite to do so.

1539. Mr. *Attorney-General.*] By that I suppose you mean that the aggrieved individual would come forward as prosecutor?—I have often seen him in the very room ready to become so.

1540. Is a private individual, in your opinion, always competent to conduct a prosecution with efficiency?—Not alone; and my experience does not go in any one instance to a case in which a prosecution has been conducted without professional aid, as I have heard stated in this room; and I have never myself seen that aid wanting where the parties have been bound over. The attorney knows that he will of course get, small as this scale is, from the county, that remuneration which is recognised by the published scale of charges.

Mr. *S. J. Roberts.*

21 June 1855.

1541. Have you never had experience of cases being insufficiently got up, and brought to trial in consequence of the smallness of the remuneration of the attorney?—I think not; but I have known them very frequently deficiently got up where the magistrate's clerk has mechanically, if I may so term it, conducted the prosecution and merely put in the hands of counsel, as I have seen in scores of instances myself, a copy of the depositions without a single comment or direction to counsel what the points of the case were.

1542. That is very commonly done, is it not?—Almost universally.

1543. They are content with the evidence as it leaves the magistrates; and so far as the instructions of counsel are concerned, they merely hand over to them a copy of the depositions?—Yes, and may blunder through it as they like.

1544. *Chairman.*] Do you think that that is the way in which the criminal law of a great country ought to be administered?—I think it is a very improper way.

1545. Mr. *W. Ewart.*] I did not understand Captain Hatton to say that the police officers were indispensable in all cases, but in certain cases, such as stealing from common lodging-houses?—Not in all cases.

1546. Mr. *Philipps.*] With reference to the payment by salary or by fees, if I understand correctly what you have said, I think you have expressed an opinion that there would be no great difficulty in fixing the amount in populous places, but that there would be a very great difficulty with regard to thinly populated places?—If it were contemplated to take a professional man's whole time, it would be necessary to do so in thinly as well as densely populated districts; I think there might be great evil also connected with the appointment of a public prosecutor; I am speaking of the Bar; that it would tend very much to throw a monopoly into the hands of a public prosecutor, as against the rising talent of the Bar, and operate very unfairly towards them. We had an instance in our county, where the Attorney-general, the late Mr. Hill, had the monopoly up to a very few years ago; every prosecutor was obliged to put a brief into his hands, and the result was, as it would probably be everywhere if it were endeavoured to make a monopoly of conducting prosecutions, that it was most miserably done.

1547. *Chairman.*] Are you aware how the business is done in Scotland?—I am not, practically.

1548. Are you aware how the business is done in Ireland?—I am not, except by report.

1549. Are you aware how the business is done in France?—I am not.

1550. Mr. *Miles.*] You know how it is done in England?—I am perfectly well aware how it is done in England, and in Wales also.

Martis, 26° die Junii, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. William Ewart.
Mr. Attorney-General.	Mr. Napier.
The Lord Advocate.	Mr. Philipps.
Mr. Watson.	Mr. Miles.
Mr. Solicitor-General for Ireland.	

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

Henry Revell Reynolds, Esq., called in; and Examined.

H. R. Reynolds, Esq.

26 June 1855.

1551. *Chairman.*] YOU are Solicitor to the Treasury?—I am.

1552. How long have you been so?—I have been solicitor since 1852; I was assistant solicitor since the end of 1842.

1553. You are acquainted with the share which the Treasury takes in conducing

ducting prosecutions?—Yes; we have had several prosecutions, but they are principally directed by the Home Office.

1554. Unless directed by the Home Office, do you take any part in them?—The other branches of the Government which are placed under our legal care also send directions for prosecutions; but even in those cases they frequently go through the Home Office. We are employed by the Board of Trade, for instance, in cases under the Mercantile Marine Acts.

1555. Mr. *Attorney-General.*] Whenever any Government department prosecutes, it is through you that it is done?—Yes, any of the departments to which our office is attached; but our principal functions are with regard to State prosecutions.

1556. *Chairman.*] You say that sometimes the Board of Trade send to you, without the intervention of the Home Office?—I believe the form is generally to write to the Secretary of State, to ask whether it is a proper case to prosecute; but the case I referred to emanated, in the first instance, from the Board of Trade.

1557. What is the course adopted by you?—The course we follow is this: in cases where the parties are in custody, we attend the police courts at which they are brought up, and have the depositions taken; then, if the parties are committed for trial, the depositions are sent and examined in our office. If we consider that no further evidence is necessary, the counsel for the Crown are instructed to draw the indictments; we prepare the briefs; and then the prosecutions are conducted by permanent counsel, who in the Central Criminal Court are appointed for that purpose. In cases in the country, the directions of the Attorney-general are taken as to the counsel to be employed.

1558. You said that you attended before the magistrates; do you mean that you and Mr. Greenwood attend there?—Not personally, except in cases of great importance; we have clerks who attend.

1559. Unless applied to by a Government office, you take no share whatever in the case?—No.

1560. Can you state about what is the expense of the prosecutions conducted by you in the course of a year?—I cannot state it exactly. The general expenses of our office altogether are about 30,000*l.* a year; they vary; they have been very much higher; we have paid nearly 49,000*l.* in one year.

1561. How large a portion of that would be expended in criminal prosecutions?—I cannot form any idea off-hand. I should say that in many of these prosecutions we get the costs allowed by the county, and only pay the difference out of the funds given to us for law purposes.

1562. What difference?—The difference between the proper costs which are incurred and the costs which are allowed on taxation.

1563. Then the costs allowed on taxation are not always sufficient to pay the legitimate costs of the prosecution?—Not always.

1564. Do you generally find that there is a difference?—There is frequently so; but we employ two counsel. I do not say that we give them a larger fee; but in cases where the county would only allow one counsel we employ two. In the Mint prosecutions, which are cases conducted in our office, we have always two counsel.

1565. Do you yourself see the attorney who manages the prosecution in those cases?—There is no attorney who manages the prosecution; we do it ourselves. In cases in the country we employ agents, and we communicate with those agents; the cases are got up under our directions, and where we see that fresh evidence is required we point it out to the agent to get it.

1566. Does it ever happen to you that it is necessary for you to point out that fresh evidence is requisite?—Yes; the evidence as it comes up may appear to be insufficient for the prosecution.

1567. If there were not a person in your situation able to superintend the management of such prosecutions, would they often fail?—No; I do not think that that would follow, because the agent whom we employ is supposed to be competent to conduct that business, but inasmuch as he is our agent, we feel it necessary to exercise a superintendence.

1568. Is it sometimes necessary to advance money in order to get the requisite witnesses?—Yes. In cases where seafaring witnesses are brought to this country in prosecutions for offences committed on the high seas, those men are anxious to go abroad again; they are bound over, but they say, unless you pay me my wages

H. R. Reynolds, Esq.

26 June 1855.

in the mean time, I must go. In those cases we direct the agents to pay them what is reasonable and proper; they are sent to the Sailors' Home, or otherwise cared for.

1569. In short, it is necessary to advance money in order to ensure the prosecution of criminal cases?—Yes, in certain cases.

1570. And if that money were not advanced the prosecution would fail?—The witnesses might take upon themselves to go away, and then probably we should make an application for the case to stand over.

1571. Were you solicitor to the Treasury at the time of Frost's trial?—No; it was before my time.

1572. Have you been concerned in any of those great trials for high treason?—Yes, I was in all the cases of the Chartist trials in 1848; they were in London.

1573. Do you recollect, some years ago, a trial which excited a good deal of attention at Stafford. The circumstance consisted of Socialist agents endeavouring to prevent people from working for a certain sum of money?—I took no part in that prosecution.

1574. With regard to the Chartist trials, will you state what was the course which you took?—The course then was, that we received information from the Secretary of State that certain persons had assembled under circumstances which were supposed to amount to the crime of high treason; that they were about to levy war against the Queen; they were taken into custody, and taken to Bow-street for examination. The police in communication with our office furnished us from time to time with a statement of the evidence which could be adduced in support of the charge; we attended before the magistrates, conducted the case before the magistrates, and when the men were ultimately committed for trial we got up the case for the prosecutions, and, I believe, succeeded invariably in every case. Sir John Jervis was attorney-general, and I believe those prosecutions were almost uniformly, if not entirely, conducted with success; they were for several offences, not for high treason; they were under the late Act for feloniously compassing to levy war against the Queen.

1575. Do you ever interfere in grievous cases of murder?—Yes, frequently. I should say that most of the important cases for murder which have occurred within the metropolitan district for the last few years have been prosecuted in our office. We prosecuted the Mannings, and also Belany for the murder of his wife, and the Goodes; the cases of burking, and other similar cases were presented by us.

1576. Mr. *Philipps.*] Will you take any one case and state what your first step was, and how you proceeded?—The course was very similar to that which I mentioned just now with regard to the prosecutions of the Chartists. We receive a letter from the Secretary of State, directing us to take charge of the prosecution of certain parties. In some cases they are already committed to Newgate; in other cases the examination of witnesses against them is going on before the police court. If they are already committed to Newgate we obtain a copy of the depositions from the magistrates, and lay them before counsel to advise as to the sufficiency of the evidence, and to prepare the indictment. Then we conduct that case before the grand jury, and on the trial at the Old Bailey, or wherever it is.

1577. *Chairman.*] I observe that all the cases which you have mentioned are London cases?—Yes.

1578. Are you ever applied to to take up cases in remote districts?—There is a great distinction between London and country cases. Cases in the country, however important, have not as a general rule been prosecuted by our office. For instance, in the case of Rush, in Norfolk, which was a very important case, and difficult to get up, we did not prosecute. The only case of late in which we had the prosecution, was that of the Birds on the western circuit.

1579. That was a case of starving to death?—Yes; they were originally indicted for murder before Mr. Justice Talfourd, and acquitted; they were afterwards indicted for assaults, and then a very important question of law arose which it was desirable to have discussed before the Court of Queen's Bench, and I presume on that account alone we were directed to prosecute. I should state that I have no knowledge of the grounds upon which the Secretary of State directs us to prosecute; we are simply directed to prosecute.

1580. You

1580. You do as you are bid?—We do as we are bid; we obey our directions.

1581. And the instance of the Birds is almost the only instance in which you have had to prosecute in the country?—Yes (except in murders and grave offences committed on the high seas, when the prisoners are arraigned at the port of their arrival); and there we only prosecuted the case for the assault, not the murder, in the first instance.

1582. Was it with a view to put and end to any question about the costs that you were directed to prosecute that case?—No; it was in order to have a very important point of law properly argued.

1583. With regard to the assault?—Yes, with regard to the construction of the Act respecting felonies, including assaults.

1584. Do you ever receive orders to take up cases where children have been ill-used in the Metropolis?—I cannot remember any case at present; but I think such a case would come within the principle of our prosecutions if it were one of very great public interest.

1585. In Jane Wilbred's case did you pay the costs of the prosecution?—I think not; I do not recollect it.

1586. Who paid the costs; were they thrown upon the parish?—I do not recollect; I do not know whether it was a case in which the costs of the prosecution were allowed.

1587. All you do is, that when you receive directions from the Secretary of State, you do your best to conduct the prosecution effectually?—We take up the prosecution and conduct it.

1588. And so far as you know you are confined to cases in the metropolitan district, with very few exceptions?—Yes.

1589. Have you turned your attention to the general administration of criminal law?—Not particularly; I have not considered what is proposed by this Bill.

1590. Are you a barrister?—I am.

1591. Does it appear to you that the want of such persons as yourself in other parts of the country must occasionally obstruct the administration of criminal justice?—I think it is possible that criminal justice may be obstructed from the want of a proper person to superintend the prosecutions.

1592. To do what you do in London?—Yes, I think it possible that cases may arise similar to those which we prosecute in London, in which from the want of a similar person justice may be defeated.

1593. You say that about 30,000 *l.* is the amount of the expenses of your office?—Yes, including those of the Mint prosecutions, the expenses of our office vary very much indeed.

1594. Mr. *Attorney-General.*] Do you know any reason why your office should not interfere in important cases in the county, just as it does in important cases in the Metropolis?—I am not aware of any reason except the great additional work which it would give to the office, which is already sufficiently loaded with our general business. I think we should want an increase of staff to undertake those cases.

1595. Then it is from the weakness of your office?—That may be the reason; we should not be able to undertake those cases without an accession of strength; but why we have never been directed to interfere I cannot say.

1596. Do you know upon what principle it is that the Home Office directs prosecutions in particular cases; is it mere matter of discretion with them, or is there any fixed rule?—It is matter of discretion with the Secretary of State where it is a case of particular interest, or there is any difficulty, or there is a representation by the magistrates that the parties bound over to prosecute would not do it efficiently.

1597. In important cases in the Metropolis in which you have interfered, has it been done by the Home Office *ex proprio motu*, or has it been at the request and at the instance of persons soliciting them to prosecute; if they found that a great murder had been committed, would they take it up spontaneously, or would they wait till they were applied to by the parish?—I think they would be applied to, or a representation would be made by the magistrates that it was a case in which it was expedient that a public prosecution should be had.

1598. Are applications of that kind made from time to time to the Home Office to prosecute in the more important cases, with a representation on the

H. R. Reynolds, Esq.

26 June 1855.

part of the parochial or other subordinate authorities, that the ordinary means of prosecution are not efficient in those cases?—I can hardly take upon myself to answer that question satisfactorily; it is a matter upon which I have not been much consulted by the Home Office. I think the Under Secretary at the Home Office will be able to give an explanation upon that point.

1599. The reason why you take up these more important cases is, that in these cases it is felt that the prosecution would be more efficiently conducted by some public authority than by the private prosecutor?—I should presume that that is the reason.

1600. *Chairman.*] That it is a case of such importance that the State ought to interfere?—That would seem to be the principle with regard to those prosecutions which we conduct.

1601. The *Lord Advocate.*] With respect to the expenses of prosecutions in the country, how are they defrayed?—They are defrayed in the first instance by the county rate, and afterwards by a vote in the annual Estimates.

1602. So that in fact, the public substantially pay the whole expenses of the criminal prosecutions?—Yes; that is the case, I apprehend.

1603. Supposing your staff were sufficient, would there be any difficulty in your conducting a greater proportion of important criminal cases, both in London and in the country, in the same way that you conduct those which you take up now?—I apprehend that our staff must be very considerably increased, even almost to the extent of having a high officer in the counties to superintend the cases. I think that the solicitor, or the assistant solicitor, could hardly undertake the superintendence of all the cases in the country.

1604. But substantially the expense would not be greater than the expense of the present system to the country?—The expense would be so far greater, as I have pointed out, in regard to the prosecutions which we conduct; we go to a greater expense than is allowed on taxation, therefore I suppose that those who now conduct the prosecutions in the country are not very likely to expend a sum which they would never be allowed on taxation.

1605. That probably is because you take up cases of importance?—It is because we take up cases of great importance, in which we feel it to be our duty that no expense should be spared which tends to the effectual administration of the law.

1606. Then you would imply from that, that the expense which is at present incurred is not in all cases sufficient to vindicate public justice?—I am not aware of any cases where there has been a failure of justice in consequence of an unwilliagness to incur expense.

1607. *Chairman.*] But you do not spend more money than you think necessary?—Never.

1608. The money which you spend you consider necessary for the administration of public justice?—No doubt.

1609. And more money is spent than you are allowed?—No doubt; we certainly spend no more money than we consider necessary for the proper conduct of the case, and we do expend, in many cases, more than is allowed on taxation.

1610. Mr. *Solicitor-General for Ireland.*] In those cases which the Treasury prosecutes, and which are cases of great importance, do you take the directions of the Attorney-general?—We do not, as a general rule, take the directions of the Attorney-general. If a case presents any points of great difficulty, we generally lay the case before the Attorney-general to advise us what to do.

1611. Then it is altogether a matter in the discretion of the Solicitor to the Treasury whether he lays it before the Attorney-general or not?—Quite so.

1612. He does not look to him as the public prosecutor?—No; we have a general discretion to consult the Attorney and Solicitor-general.

1613. But otherwise, the Attorney-general exercises no control over your prosecutions?—None over our general prosecutions; in State prosecutions, of course, he would be consulted throughout.

1614. In cases of high treason, or cases of that character?—Yes.

1615. Is the Solicitor to the Treasury paid by salary?—Yes.

1616. Then no portion of his profits depends upon the amount of business which is done?—No.

1617. The only additional expense which the public would incur in entrusting a large number of prosecutions to your office would be in the increase of your staff?—That is all.

1618. The solicitor gets no bill of costs?—No; but I should mention that there are cases in which we are obliged to employ an agent, and in those cases we have to pay the agent's bill. We had to prosecute some cases of nuisances over the water, bone-boiling establishments, and so on; they were very heavy cases, the hands in the office were fully employed, and I was obliged to employ an agent to conduct those cases, and had a very heavy agent's bill in consequence.

1619. You say that you have permanent counsel to conduct the prosecutions in London?—Yes.

1620. And that on the circuit you consult the Attorney-general as to the counsel whom he wishes to employ?—Yes.

1621. Mr. *Philipps.*] Does information of the offence which you are instructed to prosecute always come to you in the first instance from the Secretary of State, or is it ever brought to you in the first instance?—Never. If it were brought to me, I should decline to undertake it; I should say, "I have no authority to interfere; you must go to the Secretary of State, and he will give me directions."

1622. You would not interfere in the way of making a representation to the Secretary of State?—I should not feel it my duty; I should say, "It is your duty to request the Secretary of State to interfere; it is for you to make application to him, and he will instruct me, if he thinks proper."

1623. Then you only act ministerially?—Yes.

1624. In the country you occasionally employ an agent?—Yes, when I am directed by the Secretary of State to prosecute.

1625. Have you a general agent in the country?—No; I employ the best men for the service.

1626. By an agent you mean a solicitor?—Yes.

1627. *Chairman.*] Has it ever happened to you that any one has made application to you to take up a criminal case, and that you made the answer which you have stated to us?—No, I cannot recollect a case.

1628. Mr. *Philipps.*] In your judgment, are the prosecutions which are conducted by you rather more expensive than those which are not conducted by you?—So far as I have stated, they are more expensive, inasmuch as certain costs are occasionally incurred more than those which would be allowed on taxation; but I do not know that the same costs would not probably be incurred if the cases were conducted by another party; only then the prosecutor would have to pay them.

1629. Mr. *Solicitor-General for Ireland.*] I suppose in addition to conducting criminal prosecutions as solicitor to the Treasury, you have other very important duties with reference to the civil rights of the Crown?—Most important duties; I am solicitor to the Treasury, and for the offices of the chief Secretaries of State, the War Department, the Board of Trade, the Board of Control, and several others; in short, the criminal part of our business is almost the least important that we have. We have to watch all claims for peerages, cases of patents, cases before the Privy Council, where applications are made regarding public servants abroad, and a great variety of cases; and in a multiplicity of cases we have to advise.

1630. Mr. *Attorney-General.*] And matters with relation to the revenue? To certain branches of the revenue.

1631. Mr. *Solicitor-General for Ireland.*] You might be appropriately called the Crown solicitor?—Yes.

1632. In consequence of those onerous duties which you have to perform, do you think that if the Treasury solicitor had the general conduct of public prosecutions, not only his present staff would be insufficient to perform those duties, but some superior officer should be appointed to oversee the conduct of those prosecutions?—No, I am not prepared to say that, if an adequate increase were made; for those prosecutions which have been entrusted to our charge have been efficiently conducted, without detriment to the business of our office. But such a change would alter the whole character of the office.

1633. Supposing the Treasury solicitor had the duty, generally, of conducting the prosecutions throughout the country, do you think that then not only an additional staff would be necessary, but some head of that staff to superintend those prosecutions?—I am inclined to think so; some efficient person; a person somewhat more efficient than a common clerk.

1634. *Chairman.*] With the office in its present state, you do manage the

H. R. Reynolds, Esq.

26 June 1855.

prosecutions with which you are entrusted?—Yes; but if they were generally to be entrusted to us, and we had to state what was to be done in every particular case, I think our time, which should be devoted to other business, would be too much interfered with.

1635. Mr. *Attorney-General.*] I take it that, independently of public prosecutions, your hands are quite full with the civil business?—I may say that they are pretty full, certainly. We do this business, and we do these prosecutions besides; therefore I cannot say that we are unable to do them.

1636. *Chairman.*] How many in a year of these Crown prosecutions have you, on the average?—I cannot say, without reference to my books.

1637. Do you think that you have as many as five criminal prosecutions in the course of a year?—Very many more than five.

1638. Will you give us some idea?—There are other prosecutions than those I have mentioned; we have all the prosecutions connected with the commissioners of police; we have all cases of assaults upon constables. The business of the commissioners of police is very numerous. We have a number of cases of prosecutions of a summary nature. It has been our duty to endeavour to put the Smoke Act into operation, and to lay informations before the magistrates, in numerous cases, for the purpose of enforcing the Smoke Act. Then, with regard to illegal lotteries, it has been my duty for the last two or three years, not only in London, but in several places in the country, to put in force the laws made for the suppression of lotteries by laying informations against parties summarily, in order to procure them to be convicted as rogues and vagabonds. That is the course we have pursued, though there are several other modes of punishing persons who have illegal lotteries; however, that is a class of prosecutions which we have had of late.

1639. Putting aside those questions which are rather questions of police, and affecting local and municipal regulations, taking cases of criminal prosecutions before a judge, how many do you suppose, in the course of a year, fall to your share; where you instruct counsel, for instance?—Including those in London, I should think about 40 in the year, independent of the Mint prosecutions of the county.

1640. Not less than 40 in the year?—I should think not.

1641. In those cases your interference is required for the administration of the criminal law?—They are cases where we have been directed to prosecute.

1642. Which you have set in motion?—Yes.

1643. Mr. *Attorney-General.*] Is there any particular class of cases as to which a rule exists that you shall take them up and prosecute them; for instance, does the Home Department say you must put down the smoke nuisance, or you must do your best to put down lotteries? Is there any general rule with reference to the classes of cases which come under your jurisdiction; or is it merely that the Home Office from time to time interferes, and directs you to prosecute certain cases?—With the exception of Mint prosecutions, by which I mean prosecutions of offences relative to coin, which are a class, there is no general rule.

1644. Does not the solicitor to the Mint conduct Mint prosecutions?—I am solicitor to the Mint; there is no solicitor to the Mint as there used to be; that office has been abolished, and we have an assistant called the assistant solicitor for criminal prosecutions, and for offences relating to coin. Mr. Powell, who was assistant solicitor to the Mint, is now in our office; he is not solicitor to the Mint. The Mint, like some other departments of the Government, has been placed under our charge.

1645. What departments of the Government conduct their prosecutions or their business through you; because there are various departments which have solicitors of their own?—I ought to have made out a list, in order to answer that question. There is, first, the Treasury, in all its ramifications; the others are, the Secretaries of State for the Home, Foreign, and Colonial Departments; any business arising in any of those departments would be sent to us. There is the old War Office, and now I have cases from the War Department. The other day I had to prosecute a person for offering me payment of a sum of money for a commission in the militia. Then there is the Board of Trade.

1646. Supposing there were a prosecution for practices contrary to the Slave Trade Acts, it would be conducted through you?—Yes, there is a case of that sort going on. Then there are several other of the minor departments of the Government.

1647. *Chairman.*]

1647. *Chairman.*] Your duty, I suppose, also implies the task of looking into the expenses of witnesses, taking care that too many witnesses are not employed, and so forth?—Certainly. In the getting up of a case, if we saw that a witness was in our opinion clearly unnecessary, we should not have him subpœnaed.

1648. Then when your agent's bill came in you would examine it with reference to that subject, to see whether he had employed too many witnesses, and so on?—The witnesses in most cases are bound over by the committing magistrates.

1649. Other witnesses are also often called, are they not?—If we thought other witnesses necessary we should pay them their expenses.

1650. Do you exercise any part of the duty of taxing costs, and taking care that too much expense is not incurred?—We tax the costs of our agent's bill, and some other bills referred to us for that purpose; we desire the parties to send up their briefs, and vouchers, and necessary papers.

1651. And by so doing you save the public money?—By so doing we have a check over our agents.

1652. You save the public money?—We save the public money by not allowing our agent to spend more than we consider to be proper.

1653. In your knowledge, does it very often happen that in prosecutions witnesses are brought who are unnecessary?—All attorneys' bills for prosecutions are liable to be taxed.

1654. I am not talking of the liability, but of the fact. Do you not know as a fact, that it often happens that witnesses who are not necessary are called, and also that more witnesses are called than are required; for instance, that where one witness might prove a fact, two or three are called?—I am not aware of any cases of that sort; it is possible, of course.

1655. You say it is necessary that you should exercise a certain degree of control over the bills which are sent in to you as to witnesses, and so forth?—No doubt we exercise a control over the business which is sent to us; we disallow whatever we consider unnecessary for the prosecution.

1656. The *Lord Advocate.*] When you take up a case which has occurred in the country, how do you conduct the investigation on the spot; who does it?—We do it through an agent who is a solicitor; he takes the same course under our directions as we do in cases in London. We write to the agent and say, "We request your assistance in the conduct of this prosecution; if anything occurs in the course of it in which you want advice, refer to us."

1657. *Chairman.*] Mr. Waddington, I suppose, is the person whom we must ask as to the Home Office?—Yes.

1658. Mr. *Solicitor-General for Ireland.*] You, as solicitor to the Treasury, only interfere where you are put in motion by the head of some public department?—Yes.

1659. Is there any mode of bringing under the notice of the head of a public department the cases which occur in the country?—It is competent to any magistrate who has cognisance of a case which has been brought before him, or to any other person who is employed in the investigation of that case, to lay a statement of it before the Secretary of State.

1660. Mr. *Attorney-General.*] But is it any part of his duty to do so?—No.

1661. Mr. *Solicitor-General for Ireland.*] It depends very much upon chance?—Yes: I am not aware that it is the duty of any party to make an application to the Secretary of State to direct me to take up a prosecution.

1662. Or to bring the case under the notice of a public department?—No.

1663. Mr. *W. Ewart.*] Is there any want of such a power; do you think it desirable?—That is entering into the question of the advisability of a public prosecutor, more than, perhaps, from the consideration I have given to the subject, I am prepared to do at present.

1664. Mr. *Solicitor-General for Ireland.*] With us it is the duty of the resident magistrate, if anything occurs out of the ordinary course, to make a report upon it to the Executive Government; I understand that no such duty is cast upon any person here?—I am not aware of any such duty.

1665. Mr. *Watson.*] All communications are made to the Home Office?—Yes.

1666. Mr. *Philipps.*] Does it often happen that prosecutions which you are directed to inquire into are abandoned upon further inquiry?—No, very seldom. Cases do occur where after investigation it is found that you are not likely to obtain a conviction, and then they are abandoned.

H. R. Reynolds, Esq.

26 June 1855.

1667. Is that upon your advice?—Occasionally upon our advice; occasionally we should consult the law officers. Sometimes it is obvious, when a case is examined into, that you cannot carry it any farther; that you could not procure a conviction. I have had to investigate cases of accidents in mines, to see whether they amounted to sufficient for an indictment for manslaughter, and so on. Cases of that kind have failed.

1668. Mr. *Watson.*] You also enforce the Act of Parliament by civil action, do you not?—We have not done so in cases of mines, but we have in factory cases.

1669. Mr. *Philipps.*] Are you often applied to, to interfere upon statements that the magistrates have refused to interfere in, in the country?—No. If such an application were made to us, we should not have authority to entertain it.

Mr. *Francis Hobler*, called in; and Examined.

Mr. *F. Hobler.*

1670. *Chairman.*] WHAT are you?—A Solicitor.

1671. Of how many years' standing?—From 25 to 30.

1672. During that time, has your attention been a good deal occupied in the administration of the criminal law?—A great deal.

1673. Where have you been employed?—My place of business is in the City, near the Mansion House, and I have never been away from that spot.

1674. You have been engaged largely in criminal prosecutions?—Yes, very considerably.

1675. Have you turned your attention towards the question of the appointment of a public prosecutor?—I have not particularly, because I have never met with any one who has explained to me sufficiently what the desire of the Government would be; I can only collect it from the Bill, which was sent to me last night.

1676. Will you be good enough to tell us what, in your opinion, are the evils, if there are any evils, in the present system?—I do not know exactly how to answer that question.

1677. Does it appear to you that the present system requires any alteration in any respect?—I think that some amendments might be made which I conceive would be beneficial.

1678. Will you be good enough to say what those are?—I should propose that for the purpose of doing away with a great deal of the remarks which are made, of cases not being properly taken up at the different police courts of the Metropolis, some solicitor be attached to the court.

1679. Mr. *Attorney-General.*] You are starting at once with the remedy: before we come to the question of the remedy, we wish to know what are the existing defects of the present administration?—The want of some person of that kind, to whom the magistrate could refer either in a case of difficulty, or at least in a case where the evidence did not run smooth, and where the police, who take upon themselves to act very much as public prosecutors, have felt themselves at fault from the want of legal knowledge.

1680. Do you know that such instances do occur?—They must necessarily occur at times; they cannot get on without some professional assistance. I will give one instance in which I was engaged. There was a man named Gould who was charged with the murder of Mr. Templeman. I speak of many years ago. I used to do business for the Home Office at that time. The prosecution was a private one, and it failed; he was prosecuted for murder; Mr. Chadwick Jones, who is now dead, was the counsel engaged for the prosecution; he undertook to prove too much, and the consequence was he failed; the man was set at liberty, and he was afterwards taken into custody by Sergeant Otway, who was subsequently made a superintendent of police; and being in custody, I was instructed to prosecute him; I prosecuted for burglary; for breaking into the house. Mr. Bodkin was the counsel; the police could not get the case up entirely themselves; they felt the want of assistance, and I was at Bow-street upon all the examinations. The case was ultimately got together, and the point which Mr. Jones had failed upon was one which I did not trouble myself about, because it was a perfectly immaterial point; the man was convicted and sentenced to transportation for life.

1681. *Chairman.*] Was it a burglary connected with the murder?—Yes.

1682. Had the man who had committed the burglary in all probability committed the murder?—No doubt he was the same man, but Mr. Jones undertook

to

to prove more than was necessary, and failed. The police were engaged in it, and the police finding themselves at fault, I was sent for to set them right, and assist them through the case.

1683. Mr. *Attorney-General.*] Do you cite that as an instance how a man coming and interfering in the getting up of a case, may put it into such a shape as to ensure conviction at the trial?—Yes, if he has the experience to know how to go about it; but if it falls into inexperienced hands, as it did in the first instance, the man escapes.

1684. Are you aware that at the present time many prosecutions are brought to trial by the police?—I have no doubt there are a great many.

1685. Do you know of any inconvenience or evil which results from that practice?—It interferes with the duties of a professional man very much, and gives the police a power and authority which I do not think is consistent with their duty simply as police.

1686. Do you know of any instances of abuse?—I do not know of any instances of abuse at this moment, but I speak of it as a general principle.

1687. Do you think that prosecutions are occasionally brought into court without having been sufficiently got up, and that they fail in consequence?—Yes, that sometimes arises from the sessions being too quick upon the commitment, so that there is not time to get the evidence together or to look over the evidence, and supply deficiencies where it is capable of being done.

1688. Independently of that, do you believe that from the want of the intervention of some competent person to get up the case, prosecutions which ought to end in conviction occasionally end in acquittal?—I have no doubt of it; that an acquittal often takes place where, from the want of sufficient intelligence in getting up the case, it fails.

1689. Do you also believe as the result of your experience that cases are sometimes improperly compromised from the want of a public prosecutor?—Yes; one cannot tell what a man may say before the grand jury; and if there is not a solicitor conducting the case, who would keep himself quite aloof from any practice of the kind, a man may be induced to say before the grand jury what is quite subversive of the ends of justice.

1690. Is it the fact that there are persons practising in the Central Criminal Court, and sometimes conducting prosecutions, who are not persons of the highest class?—Yes, even some who are attorneys. There is one barrister whom I have known, whose name I need not mention, but I am given to understand that he will conduct a case at the police court for half-a-crown and a pot of half-and-half.

1691. *Chairman.*] Such things are said?—Yes, and that man is still living.

1692. Mr. *Attorney-General.*] The same applies to the attorneys who practise there?—They are very indifferent; and men occasionally who are not attorneys get the name of an attorney, and so they practise.

1693. I am speaking now of persons practising in the conduct of prosecutions as well as in the defence of prisoners?—Yes, I have reference to that.

1694. In your opinion, is there any safety for the conduct of a prosecution to a successful issue in the hands of such practitioners as those?—I would not guarantee a prosecution or a defence in the hands of such people.

1695. Then it is the result of your experience that there are persons conducting prosecutions in those courts to whom prosecutions ought not to be entrusted, with reference to the proper conduct of them?—Yes; I may mention an instance which occurred a few years ago, wherein a prosecution for a robbery in the Borough took place, and two very improper people were engaged, one for the defence, and the other for the prosecution; the result was, that the prosecution failed; it was natural to expect it, when you knew the names of the parties.

1696. *Chairman.*] You believe that that failed in consequence of collusion?—I have not the slightest doubt of it in my own mind. One of those men soon after fled to America with another man's wife, and the other put an end to himself.

1697. About how long ago is that?—I do not know the exact time.

1698. Is it within these 10 years?—I should think it was within 10 years.

1699. Then, in your opinion, there are a great number of disreputable practitioners, to whom, under the present system, the conduct of criminal prosecutions is entrusted, who ought not to be entrusted with such a duty?—There are several now, and I have no doubt that cases do occur; but it is not so common now as it used to be; it is much better than it used to be.

Mr. F. Hobler.

26 June 1855.

1700. The *Lord Advocate.*] You have had great experience, I suppose, in the investigation of criminal cases?—I have.

1701. You spoke about a man saying before the grand jury what was altogether inconsistent with the ends of justice; have you known instances of many innocent persons being accused before the grand jury, and bills found against them?—Taken off-hand in this way, I cannot refer to cases; but I have felt satisfied in my own mind that cases have been brought before the grand jury in which I have had something to do which ought not to have been brought.

1702. Should you say that those cases were numerous?—Not numerous; they have occasionally occurred.

1703. If there were a proper functionary for the purpose of conducting and investigating such prosecutions, do you think that the grand jury would be an assistance or an impediment to such investigations?—I think the grand jury a great assistance.

1704. In what way?—Because they are not bound by the strict rules of evidence, which a magistrate or a judge is; and they can inquire into any circumstances that may fall from the lips of a witness before them which may tend to elucidate the subject into which they may have to inquire. They have not the depositions before them, and therefore they are guided solely by what the witness pleases to tell them.

1705. Mr. *Attorney-General.*] Only that that evidence so received by them, if not received according to the rules of evidence, would not be available afterwards?—But the grand jury in London, which I am most conversant with, are generally very good men of business, and I may say that with half an eye they will see the bearing of a case.

1706. Supposing they should come to a certain conclusion, that a man ought to be put on his trial upon evidence not strictly admissible, of what use is it when the evidence upon which they have acted cannot be received in the court in which the man is to be tried?—It tends to unfold to them the surrounding circumstances of the case, and enables them to form a judgment as to the propriety of the prosecution having been instituted.

1707. What is the use of its doing that to them; if it could be a clue to anybody else it would be valuable; but as it is limited to the grand jury there present, and cannot be used afterwards, I do not quite see the use of it, unless it may assist as a clue to those who have the conduct of the prosecution in getting further information?—The reason why I mention it is from that circumstance.

1708. The *Lord Advocate.*] Supposing you had an officer who had the power of examining witnesses upon oath in the preparation of a prosecution, do you or do you not think that it would be a better means of ascertaining the truth than the examination before the grand jury?—No, I do not think it would; there must be a certain confidence on both sides.

1709. With regard to the coroner's inquests, do you think that they do or not tend to the elucidation of crime?—Certainly; the coroner's inquest is one of the most important tribunals which we have in this country.

1710. You are not of opinion that the publicity given by a coroner's inquest enables the guilty to escape?—No, not at all times; if the man is in custody, of course the evidence, if it is conclusive against him, ensures his committal; if he is not in custody, evidence may be obtained by which he may be very shortly put in custody by the facilities of communication which now exist from place to place.

1711. Mr. *Attorney-General.*] What is your opinion with regard to the police; are they, do you think, a body who are given to collusion or abuse in these prosecutions?—Upon the whole, they act very fairly.

1712. Do you think they are a body that can be safely entrusted with the conduct of prosecutions?—No; I should say it would be derogatory to the justice of this country that it should be thrown into the hands of a police inspector or a police constable.

1713. Are cases brought to court by policemen?—Very often, and they are of great assistance; but it would not do to give them the power of conducting them.

1714. *Chairman.*] Mr. Straight told us that a great portion of the prosecutions were actually managed by the police?—I have no doubt they are; they assume to themselves the duties of the attorney, and therefore they bring a great many cases before the court.

1715. In

1715. In your opinion, are they proper persons to exercise such a function?—I think it is derogatory to justice that they should have the exercise of that duty; it should be put into the hands of a properly authorised person.

1716. The *Lord Advocate.*] Does it often happen, especially where parties are of wealth or of position, that the prosecutor does not appear upon the trial?—I do not know. I have never met with a case myself.

1717. Speaking generally, you have not known many cases fail by the prosecutor not appearing on the day of trial?—No.

1718. Mr. *Watson.*] You have been engaged a great deal in London?—I have; and occasionally in the country, having been sent for.

1719. Do you see any difference in the mode of conducting prosecutions, down to the time of trial, between the cases in the country and those in London?—No, I have not seen much difference.

1720. The London magistrates are all police magistrates, and are well acquainted with their business, I apprehend?—Yes. In the country they are many of them county magistrates, and they seem pretty well versed in the nature of the business, and they have the assistance of the clerk.

1721. Has it ever come to your knowledge, or have you made any observation as to the prosecutions which are brought in order to answer private purposes, such as indictments for conspiracy and other proceedings of that sort?—Such things do occur at times, I have no doubt.

1722. Have they attracted your observation?—Not particularly.

1723. There was a case which we read in the newspaper the other day, the case of Howell and James, of Regent-street, for conspiracy?—I saw that there was such a case, but I did not enter into the particulars of it.

1724. Do you not think it advisable that there should be some officer to control that class of proceedings?—That involves a good deal of legal difficulty.

1725. *Chairman.*] In the course of your professional duty, has it happened to you to be called upon to make considerable advances in getting up prosecutions?—I am called upon for advances, but I endeavour to obtain from the party who employs me a sufficient sum to cover the expenses of the counsel.

1726. Suppose that party happened to be an extremely poor man, and unable to furnish you with the sum you require?—I should be tempted to tell him, "I cannot afford to take up your case."

1727. Is not that a disadvantage under which the poor man now labours, as the law exists?—Yes, it is a disadvantage so far.

1728. Is it not a very considerable disadvantage, that if a man without any money at all, who had received a considerable injury, were to come to you and to request you to investigate his case, and to bring the proper evidence, you would decline having anything to do with the case?—I should decline it upon this principle, that I could not afford to spend my time in investigating a matter which might prove fruitless, a merely speculative action or indictment.

1729. Has it ever happened to you to be out of pocket by any prosecution in which you have been engaged?—Yes, I have lost money by it at times.

1730. Occasionally?—Occasionally I have lost money.

1731. Have you any doubt that that must be the case with many attorneys who manage prosecutions?—I have no doubt that many attorneys have lost money by prosecutions.

1732. Mr. *W. Ewart.*] That deters them from undertaking such cases?—I have lost, myself, a considerable sum in a prosecution which I conducted, and I should be very loath if the same parties came to me again to take up their case in the *con amore* manner in which I did.

1733. Mr. *Miles.*] Was that a criminal prosecution?—Yes.

1734. *Chairman.*] Was the prisoner convicted?—Yes.

1735. And you were considerably out of pocket by it?—Nearly 300*l.*

1736. Mr. *Miles.*] Were those very extraordinary expenses which were not allowed by the judge at the trial?—No; it was a case wherein the court could not allow the expenses.

1737. What was the case; was it a felony?—No, it was a misdemeanor.

1738. *Chairman.*] Have you ever known any disputes arise as to who should defray the expenses of a prosecution in cases where, for instance, children have been ill-used?—Such discussions have frequently taken place.

1739. In your opinion, may not that state of things lead to a failure in the administration of justice altogether?—It may, because a person would say

Mr. *F. Hobler.*

26 June 1855.

directly, "If you do not choose to guarantee me the expense, I will have nothing to do with it."

1740. Does not it occur to you that that is not the state in which the criminal law of a great country should remain?—It would naturally give rise to the exclamation, "It is a pity that such a fellow should escape."

1741. Mr. *W. Ewart.*] Have you known any cases of compromise?—I cannot say that I recollect any at this moment.

1742. What practical remedy has occurred to your mind for the evils of which you complain?—I confine myself as to the actual remedy to London, because I have seen the working in London more than in any other part.

1743. What is your suggestion?—My suggestion would be to have the metropolis divided into districts, and a solicitor to each of those districts, and the magistrate to send the depositions to that solicitor; there should be a superintendent barrister, if I may so say, to whom, if the magistrate thought fit, he might refer the question, whether he should send the case for trial or not, or any question which might arise in the case; the attorney would then get up the whole of the case and prepare his brief, and deliver it to such counsel as he thought most likely to conduct the case with proper effect.

1744. You confine your attention to the metropolis?—Mostly to the metropolis.

1745. Mr. *Attorney-General.*] Where there are stipendiary magistrates who are supposed to have a certain knowledge and experience of those matters?—Yes; and the business is very well conducted.

1746. *Chairman.*] Therefore the evils would be less there than in a remote district?—Much less.

1747. Mr. *Miles.*] But you merely speak of that by analogy?—I am solicitor to the Society for the Protection of Trade. The metropolis is divided into three districts, and a solicitor attached to each district. So many police courts are given into the hands of each solicitor. I am one of those. I think we take five police courts each, and if the case of a subscriber to that society arises, the solicitor who belongs to the district has the case handed over to him, and he prosecutes; I have prosecuted, and successfully.

1748. Having been in that office, and held it for some time, taking the prosecutions under it, can you at all draw a comparison of your successes and failures as against the common prosecutions?—I should say that they were more successful when taken up in that way than in the ordinary course of things.

1749. In what ratio?—I have never sat down to make a calculation; but I should say that the generality of cases would be more successful when placed in the hands of a proper person.

1750. Relative to the police taking up prosecutions: in the metropolis must not the police, of necessity, almost be the first persons applied to by any person who has been injured in any way?—Not always; a solicitor is sometimes the first person.

1751. But if you want the caption to take place immediately, does not the person go to the police court to state his complaint?—Yes.

1752. And then does not the police officer who is there, if he sees sufficient ground, immediately order the person into custody?—The course usually is, for the party to go to the station-house, or to the police court if it is sitting, and state the circumstances of his case: it is looked into, to see whether it is one which they can act upon immediately, and if the party is found to be respectable, and there is no doubt that his complaint is just, instructions are immediately given for an officer to be at his service.

1753. That is the case with the police court?—And also at the station-house.

1754. Suppose the police court is not sitting?—The station-house would do just the same.

1755. Of course, in the multiplicity of criminal cases which arise in London, a great number of the preliminary investigations must take place at the police station?—No; there is merely the inquiry as to who is making the charge; against whom the charge is made; what are their situations in life; and what is the nature of the charge.

1756. Supposing the charge was one of murder, or any gross violation of the law, would not the police inspector sitting there act at once upon the evidence which he had, and immediately have the person taken into custody?—I should say he would, if he had confidence in the party giving him the report.

1757. Then

1757. Then London stands in a very different position from what other parts of the country do?—Certainly.

1758. And consequently the original depositions must be taken in a great measure by the police inspectors, must they not?—No; they never take depositions; they would make a memorandum in a book, as I have said before. I have never been present when a charge has been made, for I always avoid mixing myself up with it, that I may not be supposed to come there from personal interest, but the course is for the parties to make their accusation, and the inspector writes it in a book.

1759. Then you would not alter that part of the preliminary investigation at all?—Certainly not.

1760. But according to your ideas, the police having made these investigations, and the person having being taken into custody, previously to the case being carried to the police court for committal you would place it in the hands of a respectable attorney?—Almost the same day that an application is made at the police station I would send on an officer to the solicitor to say that such a charge has been made, and that directly the party is in custody he shall be informed of it.

1761. Who are the gentlemen who act as clerks to the police magistrates in London?—I think there are 15 courts, at each of which there are two gentlemen, the first and second clerk; all of them are very respectable men, and they know their business well.

1762. Are they in the profession?—No, they are not professional men.

1763. Do you think that there would be any advantage in having those clerks professional men?—Not at all, because I do not think you will find more efficient business men than the clerks of the metropolitan police courts.

1764. Still, not being professional men, may they not occasionally err in difficult cases?—They might do so; but in difficult cases the parties generally attend with their solicitor, and the magistrate being a barrister, is always referred to.

1765. As far as committal goes, the public have the best guarantee that public justice is exercised well in the Metropolis?—Certainly. I have no occasion to find fault, the least in the world, with the manner in which justice is administered in the Metropolis. Whenever I have had to attend at the police courts, I have found gentlemanly conduct on the part of the magistrates, and all the assistance in the cases which they themselves or their clerks could render, and the business carefully conducted.

1766. Still, from what I heard stated before in your evidence, it must be in the police courts that a great number of these prosecutions break down?—It is very likely.

1767. Mr. *Attorney-General.*] Would it not be useful to have some one besides the magistrate, who of course can only exercise his magisterial discretion upon the evidence brought before him; would it not be desirable, besides the magistrate and his clerk and the policeman, to have some one who, in the more difficult cases, may see that all the evidence necessary is brought before the magistrate; and if any should be wanting, to take means for supplying it?—Yes, I think it would be useful to have some one to be referred to, to assist in putting the case in a proper manner before the magistrates; the magistrates should have authority to send for a person in that character, either a regular attorney or a barrister; the attorney would be the proper person.

1768. In short, whoever is entrusted with the conduct of a public prosecution?—Just so.

1769. Mr. *Miles.*] You would not shut out, in the preliminary inquiry, any individual acting by his own attorney before the magistrate, would you?—I would not shut him out, but I would have the advantage of any information or assistance which the magistrate might obtain from other sources.

1770. Then would you have this district agent always in attendance upon the magistrate?—No, not unless the magistrate found it necessary to send for him.

1771. Supposing a poor person got hold of one of these disreputable gentlemen in the profession, and you gave him the necessary power regarding that man's case, what reason have you to think that justice, if not administered through the district prosecutor, would not be administered very much as it is now?—If it falls into private hands in that way, you cannot tell what may happen out of court.

Mr. *F. Hobler.*

26 June 1855.

1772. *Chairman.*] If you think that a district agent would be desirable in the cases in London, where the magistrates are professional men, must it not apply with much more force to the country, where they generally are not so?—The clerks to the magistrates in the country are nearly always attorneys, therefore they have an assistance which the London courts do not require.

1773. In the country the magistrate is not a professional man, and the clerk is, and in London the clerk is not a professional man, and the magistrate is?—Yes.

1774. Mr. Straight told us, in answer to a question of mine, that a great number of important cases are conducted and prosecuted by policemen at the Old Bailey. Does your experience concur in that?—I have no doubt it is so.

1775. Mr. Straight said that he did not consider them the proper body in whom such a trust should be reposed; do you agree in that?—I do.

1776. Have you any doubt that in a great many cases it leads to an improper administration of justice?—I think it is interfering with the administration of justice, that the police should take up those cases as they do.

1777. Mr. *Attorney-General.*] You say that the society for whom you are acting as attorney, employ three attorneys to act on their behalf throughout the whole metropolitan district?—Yes; we divide the 15 courts into three districts.

1778. Is it found by experience that that is a cheaper mode of proceeding to them than if an individual attorney were employed in a case in which any individual member was concerned?—Much cheaper.

1779. And more efficient?—And more efficient.

1780. In your opinion, would the same principle obtain as regards the community generally prosecuting in like manner by constituted individuals, instead of prosecuting by in each case the private individual having his private attorney?—Quite so; I should say it would be a great gain and a great boon to the public.

1781. Mr. *Miles.*] Do you think that in case of the Legislature adopting the provision of public prosecutors, the gentlemen who now divide the Metropolis into these portions and take the business between them, would be enabled to conduct all that would be required of them?—No; for this reason; the demands upon a private society are small compared to what the demands of the public would be; therefore I should increase the number. There are about six of us who are known to the public, and have been known for many years, and I think I may say we have the confidence of the public, that if our names appear the thing is properly conducted.

1782. Supposing the provisions of this Bill to be adopted, into how many divisions would you divide the Metropolis?—I should divide it into six districts, and attach one of those solicitors to each district.

1783. Would he be able not only to do the whole of the business, but likewise to conduct his own business?—No; if he is expected to do the public business, he must receive an adequate remuneration to put aside his private business, because the emoluments in a case in his private business at a district court might pay him as well as his whole salary for attending to the public business.

1784. Looking to those who generally conduct the private prosecutions, supposing such a set of men appointed, about what salary would be necessary?—I think it would not be an unfair salary to give them 1,000*l.* a year, at the lowest, if they gave up their business.

1785. Do you think you would then get the most respectable men to act?—Yes, I think you would ensure the services of men who have stood for many years before the public, and are fairly tried men, men whose name and character are too high to be put in jeopardy for a trifling thing, men of integrity.

1786. Mr. *Philipps.*] Is the remuneration of yourself and the other gentlemen who act for the Society for the Protection of Trade upon each case, or have you a fixed salary?—We get upon each case a certain sum, because, as I said just now, the claims upon the society are small compared to what the public demands would be.

1787. *Chairman.*] You have told us that there are several disreputable practitioners necessarily engaged in the criminal prosecutions at present?—Yes.

1788. Have those disreputable practitioners the power of enabling criminals to escape?—I have not the slightest doubt that that power is exercised sometimes if they are engaged.

1789. Mr. *Watson.*] There is always the means of doing it?—There is.

1790. Mr.

Mr. *F. Hobler.*

26 June 1855.

1790. Mr. *Solicitor-General for Ireland.*] In addition to the objections which have been pointed out to having the police as prosecutors, is there not this danger that the policeman becomes a partizan anxious to secure a conviction, and not to ascertain the truth?—I knew an attorney, who is dead, in whose case whenever a police constable came down to his house and told him that he was wanted at Bow-street, Marlborough-street, or elsewhere, there was a fee put into his hand for bringing down business. That of course opens to me the manner in which the business would be done by police officers.

1791. I suppose the metropolitan police receive promotion according to their general efficiency?—Yes, I believe it is so.

1792. Might not a man be considered inefficient to some extent who had taken up prosecutions and failed in securing a conviction?—He might, and he must occasionally fail from the very nature of the circumstances, and from want of knowledge how to put those circumstances together.

1793. That would necessarily operate upon the mind of a policeman conducting a prosecution, so that his own interest creates an anxious desire to secure a conviction?—Yes.

1794. In place of having a public prosecutor, whose sole motive would be to ascertain the truth and see the justice of its course, you would have one who would have an interest, not in ascertaining the truth, but in securing a conviction?—Yes, or in letting a man escape.

1795. Would you not consider that a very serious objection on public grounds to allowing a policeman to have the conduct of a prosecution?—Most certainly; I consider it a most serious injury to the public to let the police interfere so much as they do.

1796. Mr. *W. Ewart.*] In the case you mentioned the police officer would have a double interest, a pecuniary one, and that of sustaining his character as an active policeman?—Certainly.

1797. Mr. *Miles.*] Has it ever struck you that it would be an assistance to grand juries if this gentleman whom we call the public prosecutor was in the room at the time when the grand jury were sitting and finding bills, in order to give them any instructions when asked for?—That is a matter which was tried some few years ago at the Old Bailey, and I believe that for two or three sessions Mr. John Clark was kind enough to sit with the grand jury to give his assistance when they required it; but the intelligence of the grand jury is so considerable in the Metropolis, that they generally dispense with that; they occasionally now, if a question arises, send for Mr. Clark, and either Mr. Clark or Mr. Straight attends them.

1798. Has it ever struck you that it would promote the interests of justice to allow expenses to witnesses for a prisoner, in certain cases?—In certain cases it might; but the witnesses for the defence are very seldom called, and the remark of "my not being able to bring my witnesses" is very often used as a pretext.

1799. Do you not think that if there is a real defence to set up, prisoners very often, from want of funds, are unable to bring witnesses to that fact?—I have not the least doubt of it; it will happen so.

1800. Do you think in that case that it would have a very good effect if, in certain cases, the expenses of witnesses for prisoners were allowed?—Where it was a real defence, and intended to be a real defence, and not a mere pretext for the commiseration of the court, "had my witnesses been here, they could have proved a different story." When the case is made out to the satisfaction of the court, although from certain circumstances the defence may fail, yet the man having had a fair trial, and not being able to say, "had my witnesses been here, I should not have been convicted," I think the man ought to have the expenses of his witnesses.

1801. With whom would you leave the allowance of those expenses, the judge?—No, the clerk of assize.

1802. You would not allow the presiding magistrates, before committal, to determine that?—Certainly not.

1803. *Chairman.*] We have in view some scheme of this sort, that the judge, after hearing the evidence, should say, "I think those witnesses were properly called, and I allow the expenses"?—Yes, the judge might do that; and it is desirable that he should say, "The defence has failed, but the prisoner's wish has been complied with, and the witnesses who have been brought have spoken very fairly, though not to the point sufficiently to convince the jury; therefore they

Mr. *F. Hobler.*

26 June 1855.

they ought to have their expenses." Those expenses should be settled by the clerk of the court.

1804. The amount of the expenses should be so settled; but the fact whether the expenses should be allowed or not might be left to the judge?—Yes.

1805. Mr. *Miles.*] Would not there be then a difficulty, unless it was known that the witnesses for prisoners would be allowed their expenses, in poor men in the country getting persons to come from a great distance to speak to what might be very useful in their defence?—No, I think not; it seems to me that here would be the great difficulty, namely, some shabby fellow of an attorney or an attorney's clerk in the neighbourhood, saying, "I will get up the defence," and then bringing the witnesses up, getting them to sign their names to the order for payment of the expenses, obtaining the money, and paying them just what he liked.

1806. Do you not think that that might be guarded against by ordering the payment to the individual, and not paying the attorney?—The witness must sign his name to the order, to be presented to the treasurer of the county, and therefore the payment is supposed to be made to him.

1807. *Chairman.*] Is not that very often now done in cases of prosecutions?—Yes.

1808. That the attorney embezzles the money?—Yes. Mr. Goodman and Mr. Avery, and I dare say Mr. Straight, can refresh you upon those subjects better than I can, because they go circuit.

1809. You were saying just now that the cry was very often used by the prisoner, without real ground for it, "My Lord, I could have proved so and so, only my witnesses could not stay;" does not it occur to you, that if the prisoner had the means of calling witnesses, it would take away that outcry?—Certainly.

1810. Mr. *Philipps.*] I think you said that there was an advantage in the examination before the grand jury, in the grand jury receiving evidence which was not strictly according to the rules of evidence, but which still would afford them a clue to further discoveries?—The witness attends before the grand jury. I need hardly remind you that he is entirely alone; he may travel out of the record as he pleases, but the grand jury are men of business in the Metropolis, and mostly what they would say is, "We have nothing to do with that. What do you know of this matter?" putting the question to him. Then if he could give any information, though not strictly within the rule of evidence, the grand jury would not refuse it I have no doubt, because they would say, "We have to inquire into the circumstances attending this case, to see whether the man should or should not be put upon his trial, though the magistrate has committed him."

1811. The Attorney-general asked you what would be the advantage of letting in evidence before the grand jury which would not hold in court?—It is not let in; it is given voluntarily and the grand jury seeing the tendency of it, it may enable them to form a better opinion of the previous answers by the witness, and may lead them to go on a little further than they otherwise would do. But in most cases I will say that the witnesses in the Metropolis are so well examined before the magistrates in the police courts, that in many cases where you may have 8 or 10 witnesses on the back of the bill, the grand jury are satisfied with two or three.

1812. Mr. *Miles.*] With those who wish to do away with the grand jury, the argument is, that on account of the way in which the magistrates' business is conducted in the Metropolis, the grand jury is not wanted?—I know it is the argument, but there may be cases in which a magistrate may be mistaken, notwithstanding all his vigilance; and the grand jury is always a shield to protect the accused party, especially in cases where a magistrate has not been called in in the first instance.

1813. Then you would not do away with the grand jury?—Certainly not, though I only swore them in on the first day to do nothing, as is the case in the Court of Queen's Bench, and called them on the last day to be discharged; it is the great bulwark of English liberty.

1814. Mr. *W. Ewart.*] Do you think that the grand jury sometimes defend innocence, as well as lead to the punishment of guilt?—Yes; they often throw out a bill when they, as men of business, think that a man is not telling his story properly; they say, "If that man were in my service I would not trust him." They often throw out a bill upon very good grounds.

1815. They get a greater insight into the case, though they may argue upon

upon the same principles that the magistrate does?—Yes, because the magistrate is a gentleman who is bound up in the law, and the grand jury are men of business, and look at things in a business light, and form conclusions and make remarks which do not cross the mind of the magistrate.

Mr. *F. Hobl*
26 June 18

The Right Hon. *Joseph Napier*, a Member of the Committee; Examined.

1816. *Chairman.*] YOU were Attorney-general for Ireland, I think, under the Administration of Lord Derby?—I was, in 1852.

Right Hon. *J. Napier*, M. P.

1817. Have you had a good deal of experience in criminal business?—Yes, from an early period of my being at the Bar I have paid a good deal of attention to it.

1818. Will you be good enough to explain to us the system of conducting prosecutions, as it now exists in Ireland?—It is founded on the principle, which I think is a right one, that the Executive Government is properly, and I would say primarily charged, with the security of society; that the security of life and property belongs peculiarly to the Executive Government, and that all prosecutions ought to be conducted by responsible public officers. The way that we manage it in Ireland is this: the Attorney-general is at the head of the department; then there are a number of Crown solicitors; there is a Crown solicitor for the Dublin district, and there are Crown solicitors for each of the circuits; they are appointed by the Lord Lieutenant, but they hold their office during good behaviour; and though they are appointed by the Lord Lieutenant, he generally consults with the Attorney-general as to their appointment. Then, in addition to the Crown solicitors, there are what are called sessional prosecutors in every county; they are appointed by the Attorney-general. Then there are counsel on each circuit, who represent the Attorney-general; generally one or more leading counsel, who are Queen's counsel; and in addition, there are others who have general practice; but on every circuit there are two or more, who conduct all the prosecutions. The prosecutions at the quarter sessions are conducted by the sessional prosecutors, who, I believe, are always solicitors, and they take charge of that class of cases which goes to the sessions; but the other cases, which are generally of a more important description, and go to the assizes, are under the care of the Crown solicitor, with the counsel who are appointed by the Attorney-general. They do not, however, go in and out of office with the Attorney-general; that has always been the usage. When the Attorney-general comes in, he finds them there, and does not disturb them. He sometimes makes some new arrangements, or adds two or three supernumeraries, but they are not supposed to go in and out with the Attorney-general. When a vacancy arises by resignation, or some other cause, whoever is the Attorney-general for the time being exercises his discretion in appointing a proper person. The way the business is managed is this. When informations are taken through the different localities, the magistrates distribute them between the sessions and the assizes, and those which are intended for the assizes are sent to the Crown solicitor of the circuit, according to what locality they arise in. Then he at certain intervals makes them up, and he submits them to the Attorney-general for his direction; so that every set of informations in each case is submitted to the Attorney-general, and he considers them. He then states his opinion whether it is a fit case for the Crown to prosecute. Of course it depends upon the kind of opportunity which he has of giving attention to it; but his duty is, on reading each case, not merely to signify whether the Crown should prosecute or not, but to point out where there are deficiencies of evidence, and matters which may occur to him in that way, so as to get the case made more complete where he thinks it can be done. Those cases which are marked by the Attorney-general to be prosecuted are taken charge of by the Crown solicitor; and when the circuit time comes he has the proper bills prepared and the briefs given out to his counsel on the circuit who exclusively attend to them. The cases which the Attorney-general does not interfere with, the private prosecutor may take up, as is done in some instances. It is not very usual, because it is considered that the case, having been rejected by the Attorney-general, he does not deem it a fit case, or one with sufficient materials for a prosecution; however, it is open to the private prosecutor, and I have known cases so conducted by the private prosecutor.

Right Hon. *J. Napier*, M. P.

26 June 1855.

1819. Does it appear to you useful for the proper administration of justice that there should be such officers as you have described?—I think the practice in Ireland is founded upon a right constitutional principle. I think it is open to very great improvement in many of its details, but I think that it is a part of the duty of the Executive Government to attend to the prosecutions for public offences. The public are interested in them; the peace of society depends upon them; and it should not be left to the caprice or to the neglect, as one may say, of private prosecutors. People do not like to take the burthen of prosecuting; it is expensive and tedious, and it leads to a great many collusive arrangements. There are a class of cases, such as bank prosecutions; and in the north of Ireland, where the people are wealthy, I have known cases of embezzlement and cases of that kind where the parties take charge of them themselves. Then again, there is a separate class of cases belonging to public departments. The Post-office have their own solicitor, but they always lay the papers before the Attorney-general of the day; and I must say (though my experience is limited in that respect) that I never saw anything better got up than their cases. I was quite struck with them; of course, it is a very high class of solicitor who attends to their general business, but they take such pains and care with their business that their cases hardly ever fail. I never saw anything better than the Post-office cases. I would select them particularly.

1820. I understand you to say, that at the quarter sessions the matter is conducted by a sessional prosecutor?—Yes.

1821. He is an attorney?—He is a local attorney.

1822. And he conducts the business in court as well as out?—He does. There is a defect, I think, connected with that. It might be made a great deal more complete; it is rather a modern arrangement, having the sessional prosecutors introduced to the extent to which we have them now; but I think they are put under very great disadvantage, and I think they are a class of men who are exceedingly useful. I thought them an exceedingly useful class of men, but very badly paid; and though the system, I think, is a most admirable one, yet it could be greatly improved, and many deficiencies arise in it from the way in which it is at present managed. When the cases are to be sent to the sessions, the informations are returned to the sessions; the sessional prosecutor has then the informations handed to him, and he is obliged, without any other assistance, to do the best he can with them; he is obliged to consider whether an indictment shall be sent up, and how it shall be prepared, and to conduct the whole thing. I think that part is defective. When informations are taken before the magistrates, I think they should all be returned to the Crown solicitor of the circuit, and that he should, as being the proper responsible person, take the advice of the law officer upon all the informations, and give the sessional prosecutor who conducts his share of the business, advice, as he gets for himself in those cases which go to the assizes; and then that the sessional prosecutor getting the cases would have the opportunity of arranging the proper evidence, having got the proper direction, and of having the cases conducted in an efficient way.

1823. Do barristers attend the sessions in Ireland?—Very rarely.

1824. Then the sessional prosecutor is an attorney, and has only attorneys to encounter, generally speaking?—Yes. We have had for a long time what we call our civil bill courts, which are like the county courts, and we have a very respectable class of chairmen. The assistant barrister who presides there is also the chairman of the quarter sessions, and presides over the criminal business; so that he gathers about him in that way many respectable local practitioners to practise in his court. One of those is selected as the sessional prosecutor, and he takes charge of all the business that is done at the quarter sessions.

1825. Is he paid by a salary?—He is, and very insufficiently paid; I have expressed an opinion, both in and out of office, that the sessional prosecutors are very inadequately paid for the services they perform.

1826. Mr. *Solicitor-General for Ireland.*] Are you aware that it has been under the consideration of the Executive for some time, that the position of the sessional prosecutors ought to be improved; I think it was under your own consideration?—Yes; when I was in office, I quite resolved to have a change in it; the Crown solicitors I think are very liberally paid; I do not say they are overpaid; they are very respectable men, and some of them very efficient men, and they conduct the business admirably; but I think comparing their duties with those of the sessional prosecutors, considering the actual duties which the sessional prosecutors

cutors have to discharge, and the importance of that sessional business, the latter are most inadequately paid for the services which they have to perform.

1827. In fact, in many instances, it happens that the salary which the sessional Crown prosecutor gets, scarcely pays his travelling expenses?—It is very small.

1828. Take a large county, where six quarter sessions take place: he has to attend the six quarter sessions to conduct the prosecutions, and his salary is 100*l.* a year?—It is quite inadequate. I also think that Crown prosecutors should not be engaged in private cases, so as to be in one case prosecuting, and in another defending, but then the salary would not be sufficient if you deprived a man of his private practice. I think the true plan is, that the public business should be efficiently done, and sufficiently paid for; and I have always thought, with respect to these criminal cases, that a great number of cases fail because the care is not taken with them which is taken in a civil case, where the interests of private parties are concerned. With the care and attention taken in a private case, justice seldom fails compared with public cases, because the same attention is not paid. I think it is the duty of the State to see that the greatest care is taken in the preparation of cases which come into court, and in the conduct of them; and the more so because, in the criminal courts, the verdict is a final one, and I think ought to be final. In a civil case, you can remedy any error by a new trial, but generally speaking, in criminal cases you cannot; therefore I think there should be, before a case comes into court, the fullest inquiry to see how it really stands, and that, when it is in court, it should be responsibly conducted by a person representing the public.

1829. *Chairman.*] In Ireland, I understand you, that at the assizes there is always some one person responsible for the management of every prosecution?—Yes; there is on every circuit a counsel, on some of them two; there are men of very considerable eminence; a high class of men.

1830. Are they paid by salary?—No, they are paid on the briefs; probably it would be a better plan, and I rather think that a suggestion to that effect was made, to pay them by salary. They ought always to be a high class of men; because in conducting criminal proceedings there is often a very large discretion. It is often important for the administration of the law that a case should not be unduly pressed; there are often matters of right feeling and principle which require a man of a very high class, and he is considered as having the power of the Attorney-general; he has the power of entering a *nolle prosequi* upon the proceedings; he has a large and ample power over life and liberty, and a man in that position ought to be of a very high class, and they generally are so; but I think it a fearful thing to leave anything of that sort to mere private considerations.

1831. Speaking as a jurist, you think it is a great evil that, in criminal cases, private feeling should have anything to do with the administration of justice; you consider that it ought to be entirely a matter for the State; and, that when conducted by the State, great advantage results?—That is my deliberate opinion.

1832. Mr. *Solicitor-General for Ireland.*] I believe the theory of our practice in Ireland is, that the Attorney-general either personally conducts every prosecution, or conducts it by some one appointed by him, and for whom he is responsible?—Precisely.

1833. And the party who represents the Attorney-general, whom I call the senior Crown prosecutor, is armed with all his powers; he may apply to postpone the case if he thinks the evidence not sufficient to sustain it; it would be his duty to apply to the judge to postpone it?—Just so.

1834. Or he may enter a *nolle prosequi*; in fact, he may exercise all the discretion that the Attorney-general would, if present?—Precisely.

1835. Do you approve of that course?—I think it is founded upon a right principle.

1836. With reference to the appointment of the Crown prosecutors, and the gentlemen at the bar whom the Attorney-general nominates to act for him on all the circuits in Ireland, do you not think there is a great advantage obtained in these nominations in directing the attention, especially of the junior prosecutors, to the study of the criminal law?—Clearly it may be so.

1837. In that way, and by their frequent changes, you train up a class of men who have made the criminal law their study, and who become acquainted with all its bearings on every circuit?—Just so; you may do it.

Right Hon. *J. Napier*, M. P.

26 June 1855.

1838. And men who, if they did not hold these situations, would have devoted themselves perhaps exclusively to the law as regards civil subjects?—I think so; it may be an encouragement.

1839. From your great experience at the bar, and your experience as Attorney-general, do you conceive that the independence of the bar has been in the least degree affected by giving the Attorney-general the power to nominate those parties who represent him?—I think not; I do not believe it has hitherto in any way.

1840. I believe those gentlemen who so represent the Attorney-general, not paid by salary, but by fees, are paid by very moderate fees?—Yes, they are very moderately paid.

1841. However, they are quite content with the payment which they get?—I never heard them complain of it; they are moderately paid by the fees on the actual business which they do. There have been some matters of detail, a little variation of practice, as to giving them briefs at a particular time. I thought that in all these cases the same pains and care ought to be taken in a Crown case that you would take in a civil case, and that there ought not to be any small peddling, if I may so say, of holding back a brief, but that they should have full power of preparation in all cases to be prosecuted under the direction of the Attorney-general.

1842. By the system in Ireland, from the moment a crime is committed, there is some public officer who has it in charge, and to see that justice is administered?—Yes.

1843. The resident magistrate first takes it in charge?—He frequently takes the informations.

1844. And if there is anything out of the ordinary course, he reports to the Executive?—Yes.

1845. In addition, if there is anything out of the ordinary course, it is sent at once to the Crown solicitor, and by him brought under the attention of the Attorney-general?—Just so.

1846. So that from the beginning there is not one moment till the verdict of the jury is given, in which that case is not in the charge of some public officer?—The best assistance is available.

1847. Mr. *Miles*.] In cases before the magistrates, is it only in peculiar cases that the committing magistrate applies to the Attorney-general for advice?—Only in peculiar cases; generally speaking, the magistrate discharges the duty of taking the informations, but there may be something critical or difficult, and if he feels a difficulty, he of course communicates with the Castle.

1848. If we have the power as magistrates now, in cases of difficulty, of applying to the Home Office, we are placed in nearly the same position as the magistrates are in Ireland, are we not?—Not exactly; for instance, the sessional prosecutor is a local person; he is at hand, and the facility of getting official direction is greater. On one or two circuits, a few years ago, they tried the change of making a local person the Crown solicitor, instead of having one Crown solicitor for the entire circuit; and on one or two of the circuits, they broke up the circuit into portions, and gave the Crown solicitorship to local persons, with the intention that they should act as advisers to the magistrates.

1849. Was that system continued?—The gentlemen who were appointed still remain, with one exception. One died, and the successor appointed was not a local person.

1850. Are they very effective?—I do not think that that part of it has worked well, but it may not be the fault of the system; I think it is capable of improvement. My own opinion about it was that the sessional prosecutor being a local person, should be the adviser of the magistrates, because the kind of cases in which the magistrates are more particularly interested which come before sessions, would be the cases that he would be conversant with; but with regard to that class of cases which are proper for the assizes, I thought it always better that the Crown solicitor conducting them should not be locally connected. At the assizes where there is anything religious or political, it is far better to have a staff not in any way connected with the locality; it creates less suspicion; therefore it occurred to me that the best plan was to have a Crown solicitor for the whole circuit, going through the whole circuit and not connected with any locality, and having his staff of counsel in the same way, going through the whole circuit; but the sessional prosecutor, if properly paid, living on the spot, should be

be the person, if the magistrates thought it necessary to ask his aid in taking informations and all those things, and then I think it far better that the duty of the magistrates should be confined to the ministerial office of taking the informations; they may have to sit upon them afterwards at the sessions. I think, in the intermediate steps between committal and attendance at the sessions, it is better for the magistrates not to interfere; they have a ministerial duty and a judicial duty; they should be assisted in one by the local person, whoever he may be, and in the other by the chairman of the quarter sessions.

1851. Did you endeavour to carry out that system of breaking up your counties into sessional divisions?—It was only tried where the Crown solicitor of a circuit died; we could not kill the others. On the Munster Circuit, Sir Matthew Barrington, the Crown solicitor, is a most valuable man; on the North-Eastern Circuit, Mr. Maxwell Hamilton in the same way; on four of the circuits there are gentlemen who hold those appointments, and while they are there no change can be made: of course if any of them die or resign, it will be open to the Executive Government to consider whether they should make a change or not.

1852. Knowing our system as well as the Irish system, what recommendations would you make as to the preliminary inquiries before magistrates; would you hold that what is termed the district prosecutor in the Bill should assist the magistrates in difficult cases?—Certainly.

1853. Would you pay that district prosecutor by fees, or by salary?—Upon these matters of detail my opinion may not be very valuable. I would pay him by salary.

1854. What number of petty sessional divisions do you think he should have under his control for advice when required by the magistrates?—He would attend to all within his district; it would not be necessary for him, however, to be going from place to place unless when required.

1855. He, of course, would only be applied to in difficult cases?—Just so. Then he would see first that there was a proper case; and if necessary, he could take the direction either of the Attorney-general or of some person whom the Attorney-general should appoint. Then, after that, he could see that the proper evidence was procured. Most of these cases fail from the want of that kind of decent attention which is indispensable in efficiently getting up the case; and I think juries are often blamed for their verdicts in criminal cases, when the real cause of the failure is the slovenly, slobbering manner in which cases are presented to them.

1856. You have been asked relative to the Irish system not at all injuring the independence of the Bar; do you not think that there is this one fault in it, that only a certain number of persons ever have the different sorts of business of the Crown placed in their hands?—I do not know as to that; the criminal law is very important, and I think its importance is quite underrated; in that way it has very often fallen into the hands of an inferior class of practitioners, whereas I think the criminal law opens the door to the exercise of the highest powers. Then it is important to have men of very great experience who understand the criminal law well, and give their attention to it, and at the Bar, unless a man has some inducement to do that, it is merely considered as a kind of adjunct. I remember when I first went circuit, it was not much attended to by those who were in civil business; they would go in occasionally if they were wanted, but myself and some others on the circuit paid attention to it as a study; and it does appear to me, that having men whose peculiar duty it is to attend to it is of great importance, and that they become experienced in the working of it. On every circuit in Ireland we have experienced men who attend to it with great benefit to the public.

1857. Then it encourages the division of labour at the Bar, and is to the public benefit you think?—I do.

1858. *Chairman.*] You think that your system is favourable to the improvement of the Bar?—I think it can be made so; in every system there may be more or less of abuses, and people will see ways of improving it. It occurred to me when I was Attorney-general to do this: I directed the employment of what we call supernumerary prosecutors; they are not often employed, but they sometimes get a stray brief when there are a number of cases in a town, and what I directed was to ascertain in each circuit who were the barristers who had been the most diligent in their attendance in the Crown Court, and looking after the cases, to observe them, and I made out a list of them for the purpose of

Right Hon. *J. Napier*, M.P.

26 June 1855.

having them as the supernumerary prosecutors, so as to reward the persons who had been giving attendance in that way, and endeavouring to make themselves familiar with the law, and so to train up as well as one could a class of men some of whom might take the places of the permanent counsel.

1859. Mr. *Solicitor-General for Ireland.*] I believe what you mean by super numerary counsel are gentlemen named by the Attorney-general to be taken in occasionally from the weight of the business requiring it, or from two courts sitting at the same time, when the permanent prosecutors are not sufficient. The Attorney-general appoints to each circuit a Crown gentleman, called his permanent counsel?—Yes.

1860. But from the weight of business, or from the fact of the two judges being both trying criminal cases at the same time, the permanent prosecutors may not be adequate to carry on the prosecutions, and the Attorney-general names supernumerary prosecutors to be taken in from time to time, as occasion may require?—Just so.

1861. They depend altogether on the occasional briefs which they get?—Just so.

1862. But that inducement is quite sufficient to make them study the criminal law?—It may be of use; and I directed such of the junior Bar to be selected as had been in the habit of giving more diligent attendance, so as to encourage and reward them.

1863. *Chairman.*] Do you think that it would be an improvement on your system, with a view to the independence of the Bar, if prosecutions and the management of prosecutions were flung into the hands of policemen, and a low class of attorneys?—Certainly not.

1864. Mr. *Watson.*] Upon the whole, do you consider that the Irish system works well?—I do; but I think it is capable of very considerable improvement.

1865. I suppose you very rarely attribute a failure of justice to the want of properly getting up a case?—There are cases where justice has often failed, even with our system; therefore I say it can be greatly improved, but at the same time I think a great deal of the business is admirably done. We have some very efficient men. Wherever you have efficient respectable men, depend upon it the business will be well done, and public justice will be satisfied.

1866. And there is no chance whatsoever of a prosecutor being bought off, or of an improper compromise in your system?—There cannot be; sometimes the witnesses, in spite of all one can do, will be tampered with; but as the public officers have the conduct of the proceedings, there can be no likelihood of collusive arrangement of any kind.

1867. And I suppose there is no reason to imagine that the Crown prosecutors ever unnecessarily press a case so as to obtain an unfair conviction?—It is considered to be the duty of those who represent the Attorney-general to administer justice in a becoming way, and never unduly to press a case, and never to exercise any severity which the purposes of justice do not require.

1868. And thoroughly to sift the case both before and during the trial, I suppose?—Yes. First the informations are submitted to the Attorney-general; then, if he thinks the informations disclose a sufficient case, he marks upon them his order to prosecute on the part of the Crown. Then the Crown solicitor is obliged to see the witnesses himself, and examine them, and then, if he requires any further directions on the circuit, he has the counsel of the circuit, who represents the Attorney-general, to direct proofs, or to make any additional suggestions.

1869. Under all these circumstances, do you think that the public criminal justice of Ireland could, on any system, be rendered cheaper than it is at present; do you suppose that any unnecessary expense is incurred?—I do not know that there is; I am not aware of any.

1870. From what you have heard, I suppose the cost of prosecutions in Ireland is not, on the average, more than it is in England?—I do not know; I agree in the principle of which we hear in the House of Commons, that the first thing is to have efficiency; but I am not aware of any undue expenditure of public money.

1871. There is a strong feeling in England of an undue pressure upon the county rates sometimes?—All our staff is paid out of the Consolidated Fund, and I think that the expenses of the witnesses generally come off the locality, which is a very fair arrangement. The general staff for the benefit of the public is paid

out

out of the general Consolidated Fund, but the expense of witnesses, being a local thing, is paid by the locality.

1872. When you were Attorney-general, did you exercise any power in allowing the witnesses for the prisoners to be brought up at the public expense?—Yes; cases came before me, when I was Attorney-general, about the expense of defending prisoners. It is very rarely allowed, because, generally speaking, I think you find that they manage somehow or other to be pretty well defended. But there were cases, and I remember one case particularly, which occurred at an assizes when I was attending myself; for the Attorney-general in very important cases attends in person; I think it was the case of a woman charged with child murder, or something of that kind. She had no one to defend her, and the judge (I think it was Judge Ball) thought it was a case in which she ought to have some person, and I gave directions to the Crown solicitor, as the judge thought it a proper case, to allow, I think, 5*l.*—to allow a certain reasonable sum for attorney and counsel to have her properly defended.

1873. In Ireland, what is the general opinion and feeling as to the mode of conducting prosecutions; is it popular, or are there law reformers there anxious to change it?—There are matters of detail which are capable of very great improvement, and I thought when Mr. Phillimore's Bill was introduced, considering the mode of proceeding in Scotland, and the mode of proceeding in Ireland, that, by a kind of review of the whole, we might get at least for England and Ireland a very improved system. There are many matters, I think, in Ireland which are capable of considerable improvement, but I think the system right in principle.

1874. Do you see any reason why the Irish system, or the Scotch system, or a combination of the two, could not be introduced into England?—I think an improved system is quite attainable. I of course speak with great deference. In introducing a new system great care should be taken in England to avoid coming too suddenly in collision with what people have been accustomed to; but it does strike me that all matters fit for public prosecution should be taken charge of by responsible public officers, and that the Executive Government should be charged with the duty of seeing them adequately conducted and carried out. With respect to a new trial in criminal cases, I quite agree with Lord Denman, that the great object should be before a case is brought into court to take every means and precaution in having it sifted and examined before the case is presented to the petit jury; but that when it comes there a man should never be brought to trial again, that it should be final; that involves a greater necessity for examining into all preliminary matters.

1875. Mr. *W. Ewart.*] You think that in criminal cases a very careful previous investigation of the evidence is preferable to giving a power of appeal?—I do. I have a strong opinion upon it.

1876. I think you stated that the Crown solicitors are appointed *quamdiu bene se gesserint*?—Yes.

1877. Are the Crown counsel so appointed also?—Yes, the Crown counsel do not go in and out with the Attorney-general.

1878. Mr. *Solicitor-General for Ireland.*] But it is quite open to the Attorney-general when he comes into office, if he pleases, to remove all the prosecutors?—He may do it, but it never has been done.

1879. The Crown counsel on the circuit simply represent the Attorney-general?—Simply, and not the individual.

1880. He is responsible for them, and he may remove them?—Yes.

1881. In reference to the careful preliminary investigation of which you have spoken, as a general rule is it not the fact with us, that according to our system the case does receive a very careful preliminary sifting?—It does generally.

1882. And are you aware that in the exercise of the discretion of the Crown counsel, if he thinks the case has not been properly sifted, he has authority to apply to the judge to postpone the case?—Yes.

1883. And does so?—And does so frequently.

1884. In order that it may be made perfect, and that a man either may not be unfairly charged before the jury, or may not escape, if guilty?—Yes; a very remarkable instance of the necessity for such deliberation occurred in a celebrated case; Kirwan's case, which is instructive. It made a good deal of stir in England. It was a case of a man who was charged with the murder of his wife, at a place called Ireland's Eye. There was a coroner's inquest held on the body, and

Right Hon. *J. Napier*, M. P.

26 June 1855.

and they returned a verdict of accidental drowning. There was a good deal of murmuring in the neighbourhood, and much dissatisfaction among the common people; they had a general feeling that she had been murdered. A very active magistrate, Major Brownrigg, heard something of this from some of the constabulary there. He applied to me (I was then Attorney-general), and we prosecuted some further inquiries. It turned out that the coroner had examined as the medical witness a man who had never seen a drowned body; the man got his fee upon the inquest, and the jury, aided by his medical opinion, returned this verdict of accidental drowning. Major Brownrigg, from what he heard about it, followed up the inquiry, and had the body disinterred, and an examination of it took place at rather a late period. I believe that if it had been properly examined at the first, the case would have been put beyond all doubt; but he had a surgical examination I think a fortnight or three weeks, or perhaps more, after the body had been buried. The case then assumed a new aspect, and bills were sent before the grand jury, and they were found. I then ordered the case, it being so very peculiar a one, to stand over, and not to be allowed to be tried at the then sittings in Green-street, as perhaps we might discover some additional evidence. There was additional evidence got, and the consequence was, that afterwards that case was tried before two of our most experienced judges, and a verdict of guilty was returned, and I believe most properly so.

1885. *Chairman.*] We were told by the last witness that it might not impossibly happen that a poor man, who had been injured, might go to a solicitor, and the solicitor might say, "I cannot attend to the conduct of your case;" could that happen in Ireland?—No, it does not happen in Ireland, because either the sessional prosecutor or the Crown solicitor or the constabulary are at hand to take it in charge; it is their proper duty; it is not the case of A. B. or C. D.; it is the case of the public.

1886. Such a thing could not happen?—No.

887. Mr. *Solicitor-General for Ireland.*] The party who has been injured does not want a solicitor, for the Crown solicitor conducts the business for him, as part of the public business?—He attends to every proper case.

1888. Can you tell us the origin of the Irish system of appointing prosecutors?—I do not know, I never deliberately studied it. The Attorney-general has the power as representing the Crown; he could, of course, as he could in England, stop any prosecution; he could enter a *nolle prosequi* upon any prosecution in the Queen's name; he has by the constitution all these powers, and he may appoint persons to represent him.

1889. I believe, whatever the origin was, it has been established as long as the memory of living witnesses goes back?—Yes. I remember looking into it to this extent: a question arose about the appointment of Mr. Kemmis, on the Leinster Circuit; he is a barrister; he is the only Crown solicitor who is a barrister; his father was, and is still, a very eminent Crown solicitor; he had assisted his father for a great many years, and had taken charge of the Leinster Circuit; his father had both the Dublin Circuit and the Leinster Circuit, and the son was appointed to the latter, but an objection was made, by some persons saying that he was only a barrister, and in that way I investigated the powers of the Crown, and I thought quite clear that it was competent to the Crown to appoint any person to act. He is one of our very best men.

1890. The Attorney-general, in fact, with us exercises in practice the powers which the Attorney-general for England has in theory?—Yes.

1891. The Attorney-general has for each circuit, or for each town on the circuit, if he pleases, what is called a senior prosecutor?—Yes.

1892. He is generally a Queen's counsel?—Yes.

1893. And is selected on account of his proved efficiency?—Yes.

1894. There is another permanent prosecutor under him, either for the whole circuit or one for each town?—Yes.

1895. And it is the duty of that second man to prepare the indictments, and see that the evidence is all correct?—Yes.

1896. Then you have the supernumeraries in addition to those?—Yes.

1897. All armed with the powers of the Attorney-general?—Yes; the senior man, of course, controls the juniors.

1898. With reference to the preliminary investigation, you have stated that each bundle of informations is sent by the Crown solicitor to the Attorney-general?—Yes.

1899. For

1899. For his direction, which is generally given in the words "Prosecute," or "Do not prosecute"?—Yes.

1900. But if he thinks fit, he adds further directions?—Precisely; and I think he ought to do so, where the case requires it.

1901. I believe the expense to which the public is put in fees for that duty is not very large?—No.

1902. The Attorney-general, in fact, for performing that duty, is very inadequately paid?—He is paid one thing with another. I take his payment altogether; he is very fairly paid, I think, upon the whole.

1903. But for the performance of that duty the public is not onerated to any large extent?—Certainly not. The Crown solicitor marks what he thinks a suitable fee, according to the number and the probable result of the cases; and, generally speaking, they are as fairly managed as if it were a case the expense of which came out of the pocket of a private individual.

1904. In sending the informations of a whole circuit to advise upon, perhaps he would give the Attorney-general a fee of 50 guineas?—No, I think not so much.

1905. What would be the fee for all the informations of a circuit?—I do not think I ever saw so large a fee as 50 guineas; they vary from 10 to 15 and 20 guineas; but they may be more according to the number of cases. Informations come in batches, and that is a part of the thing which I thought wrong. Sometimes, immediately before the assizes, they gather up a whole heap, and then send them all at once; whereas I thought that the right plan would be, that as informations are taken from time to time, they should be distributed properly between the assizes and the sessions, being first sent periodically to the Attorney-general. I think he should get them, say, every fortnight. The advantage of that would be that it would not fling at him a whole mass of papers at once; he would get his directions properly distributed, and it would also give ample time to supply any defects which sometimes arise in the cases. I remember that in the summer circuit of 1852 cases came to myself where I thought the evidence was quite insufficient; cases of some nicety, and in which I thought that something more should be done to make the case complete; but they could not get the proper evidence in time, and the result was that as there was no circuit till March 1853, the cases were thrown over.

1906. Are you aware that at present that system has been altered, and there is now a rule that the Crown solicitor shall, as the cases arise from time to time, send them to the Attorney-general?—That is quite proper.

1907. You stated that the Attorney-general conducts the prosecution personally where the case is of great public importance?—Just so.

1908. In doing that, he is only directed by his own discretion?—Just so. There is a class of cases of great public consequence, where it is considered that his attending in person gives weight and authority, and sometimes he takes the Solicitor-general with him; for instance, there was a recent case of a prosecution directed by the House of Commons.

1909. When you were Attorney-general, you had some cases in the north of Ireland, I believe?—Yes, cases growing out of the Ribbon system on the Northern Circuit.

1910. You thought those of sufficient importance, involving great public consideration, that the Attorney-general should himself attend and prosecute in person?—Yes, and there was one case in the county of Monaghan that had been already made the subject of a special commission before I got into office. Then there were two cases in the county of Louth and the county of Armagh; those were Ribbon cases. Great observations had been made before about the reluctance of juries to convict. I took a great deal of pains with the evidence; probably I did what I used to do when I was junior counsel, namely, to look carefully myself into the case. The result was, that we got verdicts in both the counties without difficulty. I must say also, with regard to the jurors, that they acted without fear, favour, or affection.

1911. I believe, in addition to having the case properly prosecuted, it has a great public effect, when the Attorney-general, representing the Crown, is seen to go down in person, and in that way to show the determination of the Executive?—Yes; when there has been some peculiar offence of a public kind, it shows the determination of the Executive Government that they will grapple with that particular system. In the very cases which I have mentioned, we heard afterwards

Right Hon. *J. Napier*, M. P.

26 June 1855.

wards that more than 200 of the persons connected with the Ribbon system had emigrated from the country after the convictions.

1912. Before you were yourself Attorney-general, I think in the year 1848, do you remember that the counties of Limerick and Clare were very much disturbed, and that there were great outrages committed?—Yes.

1913. The Attorney-general went down and prosecuted people thereon, and we have had those counties since in a state of peace?—Yes; I believe that a firm and fair administration of the law in Ireland is of the highest public consequence.

1914. In addition to what you have stated, I believe the Executive in Ireland are very much assisted in the administration of criminal justice by those officers whom we know as resident or stipendiary magistrates?—The stipendiary magistrates, like all bodies of men, are both good and bad; but there are some of them very intelligent and respectable men.

1915. They are appointed by the Crown, and paid by salaries?—Yes.

1916. And it is their duty to report to the Executive Government when anything out of order occurs?—Yes; they are very useful; and also the constabulary are most useful; for instance, in one of those very cases of the Ribbon system at Armagh nothing could exceed the activity and the vigilance of the constabulary; in Mr. Chambre's case at Armagh.

1917. When confined to the performance of their proper duties?—Quite so.

1918. Not in conducting a prosecution, but in assisting the proper officer of justice in conducting it?—Quite so. They have such a good class of inspectors and officers over them, and the head of the department, Sir Duncan M'Gregor, is such a valuable man, that they are most able assistants in the detection of criminals.

1919. Mr. *W. Ewart.*] But you would very much object to their interference in criminal matters?—They are never allowed to interfere, more than assisting in the way in which the Solicitor-general for Ireland has stated. They are not allowed to do anything on their own responsibility.

1920. Mr. *Solicitor-General for Ireland.*] I believe the assistance derived from our very efficient constabulary system most materially reduces the expense of administering criminal justice?—I think it does. I think it is most important for the peace of the country.

1921. For instance, they collect the witnesses together and bring them in?—Yes; and they are so well acquainted with the different localities, and all the people in them, that when a crime is committed they know almost instinctively where to go to look for the party committing it.

1922. And the people have great confidence in them?—I think they have; I think in Ireland, generally, you find that there is no feeling against the persons who are charged publicly with those duties. They are expected to perform their duty, and I think there is no feeling whatever against the public officers.

1923. Mr. *W. Ewart.*] In what proportion are the stipendiary magistrates distributed throughout Ireland?—They have them in various places. There are parts of Ireland where it is very difficult to get an unpaid magistracy, and in other places there is a class of stipendiary magistrates who assist the gentry. I think they work very well together upon the whole.

1924. Then, if I understand rightly, it is the reverse of the system pursued in England, where in remote districts the only magistrates are the unpaid magistrates?—In Ireland we have a great many unpaid magistrates, but in some places it is difficult to get persons of a proper position to be unpaid magistrates; and also the stipendiary magistrates assist the others.

1925. If I understand rightly, in Ireland the private prosecutor may proceed, notwithstanding the existence of a public prosecutor?—In one sense he may, but they never do except after the Attorney-general has had the case; the Attorney-general's power of stopping any case takes it out of the hands, in the first instance, of the private prosecutor.

1926. If the Attorney-general fails to prosecute, is there anything which should prevent the private prosecutor from proceeding?—No, nothing.

1927. In Ireland this is not a local system of prosecution; it seems to me to be more connected with the circuits; it is not local as in Scotland and in France, where the prosecutor is generally a local officer who lives very much in the country?—The sessional prosecutor is a local officer, and two or three of the Crown solicitors should be so; but generally speaking, it is not so.

1928. Do you think it more desirable to have at least a certain degree of independent action not connected with the locality?—The circuit staff generally is not connected with the locality, and of that I approve.

1929. Do you think that preferable to having a greater degree of connexion with the locality?—There is one class of cases for which the local staff is better adapted; and there is another class of cases where I think it better to have what I call the central staff; I think that both together act usefully.

1930. How would you draw the distinction?—There are cases of local political excitement, or growing out of religious differences, or agrarian matters, where it is often important to free the administration of justice from any suspicion as to the parties who are carrying on the prosecution being locally connected; a local respectable man will have a good deal of private connexion. He may be doing business for some of the proprietors, supposing it is a case of some agrarian disturbance, or some political matter. Where he happens to have a private connexion of this kind, and is also a public officer, people will suspect and think that he is carrying out the views of his friends. In this class of cases, I think it far better for public justice that the persons who are conducting them should only appear in their character of public prosecutor.

1931. Mr. *Solicitor-General for Ireland.*] Is it your view that these prosecutors, representing the Attorney-general, the permanent Crown counsel, should be debarred from practising in the civil court on circuit?—A question has arisen about that; what I thought was this: I did not think it right to lay down any absolute bar against it. I thought that when they accepted the office, it should be upon the complete understanding that the Crown business would receive their primary and proper care. But there are instances, for example, in a circuit town, where the Crown business is unimportant, and it is probably over the first day; then it is a matter, I think, for the consideration of the counsel. Of course, if he is attending to civil business in any way interfering with the discharge of his duty to the Crown, I think it is a matter in which the Attorney-general should interpose, but not beyond this.

1932. Do you think that the Crown prosecutor should be bound exclusively to attend to the Crown business as long as there is Crown business to attend to?—I think his Crown business demands his first care, and that he should not allow anything to withdraw him from it, or interfere with the efficient conduct of the prosecutions.

1933. At the court of quarter sessions a great deal of our criminal law is administered?—There is a great deal done at quarter sessions.

1934. And the magistrates have all the advantage of having a gentleman of great skill as the chairman of quarter sessions?—They have.

1935. So that, in fact, they have always, as chairman of the quarter sessions, a skilled barrister presiding?—They have men of the most competent class, some of them quite fit to fill the highest judicial office.

1936. I may mention one in particular, Mr. Jonathan Henn?—It has always struck me as a singular thing, that one of the ablest men I ever knew in the profession should only be an assistant barrister.

1937. If we have in the quarter sessional court the advantage of a gentleman fit to fill any position of experience, and if at the quarter sessions in Ireland you think it advisable that the court of quarter sessions should be assisted by having a public prosecutor there, where the chairman is an experienced barrister, is it not much more so in this country?—The chairman in Ireland, of course, has more professional experience than one would expect here; though I believe that some of the chairmen of quarter sessions in England are very competent men.

1938. But your judgment is, that in Ireland it is advisable to have the court assisted by the presence of a public prosecutor?—I think so.

1939. If that is your opinion as to Ireland, I do not doubt your opinion is that in this country the court of quarter sessions would more need assistance, not having a barrister presiding?—I think so; I think that whoever conducts the prosecutions ought to be for the time a public officer, and responsible to the public for the discharge of his duty.

1940. Is there any one filling the position of a prosecutor at all at the court of petty sessions in Ireland?—No.

1941. There is no one in Ireland at petty sessions who fills that position?—No; at petty sessions some cases occurred, in 1852, I think, on the Connaught circuit,

Right Hon. *J. Napier*, M.P.

26 June 1855.

of rather a peculiar kind, and I ordered the sessional prosecutor there to attend. What I always advised the magistrates at petty sessions was, simply to take the informations; in religious and political cases they frequently got involved by having speeches made, and I advised them never to allow the parties to raise a religious question at all, but to inquire merely whether there had been any infraction of the peace, or any violation of the law; I said, "All you have to do is, to take the informations, and do not allow any party to raise a religious question, for you are to know nobody but A. B. and C. D. here;" and in that way I discouraged those kind of hearings, and I directed the sessional prosecutor in some cases to attend and simply to see that the informations were properly taken against every party who happened to have violated the peace, and that all were treated alike.

1942. You are aware that in Ireland there is an officer filling the position of petty sessions clerk?—Yes.

1943. Elected by the magistrates?—Yes.

1944. Subject to the approbation of the Executive?—Yes, I think the Lord Lieutenant has the power of dismissing him under the Act.

1945. How is that officer paid?—I think he is inadequately paid also: they are very proper men, but I think it important to secure a respectable class of officers in that department.

1946. They are paid by fees?—Yes.

1947. Are those officers attorneys?—No, I rather think not; in some of the places they are attorneys, but I do not think that the rule is universal.

1948. Am I to understand, in your view, that in the evidence at petty sessions the magistrates ought to have the opportunity, if they feel it necessary, to call for the attendance of the sessional Crown prosecutor to assist them?—I think they ought.

1949. Then, without having a permanent officer for petty sessions, you would give the magistrates there the power, if they thought fit, to call in the aid of the local sessional Crown prosecutor?—I think so; that he, being on the spot, and having charge of the business at the sessions, and of the business which the magistrates are particularly interested about, he should be there as their adviser and assistant, and to conduct the cases afterwards.

1950. That would not add to the public expense, because that officer is paid by salary?—He is paid by salary, but I think, and I repeat it, they ought to be a great deal better paid than they are.

1951. Mr. *Miles*.] Can you tell us what is the ratio of convictions and acquittals in any year in Ireland?—I cannot; that is a matter of detail. The Crown solicitor of each circuit makes a return to the Attorney-general of all the cases either within his circuit, or, if he belongs to a branch of the circuit within his district, he states the time of the committal and other particulars. There are a number of columns, giving all the details; what bills are found or ignored, and whether there is a conviction or acquittal, and what takes place.

1952. My reason for putting the question to you was, to discover whether in Ireland, where you have this public prosecutor, the convictions are greater as compared to the acquittals than they are in England?—That might mislead a good deal, because there are so many peculiar circumstances. There are a class of cases connected with the composition of juries; there are a number of other circumstances in that way, so that I do not think a comparison of those results would be a safe rule to go by; but this I say, that whenever you have the prosecutions attended to as they ought to be, I think there is seldom a failure of justice.

1953. Our sessions are conducted in a different way from yours; we have invariably a bar, and a considerable bar, at sessions. Would you appoint one of those barristers so attending to hold temporarily the office of Attorney-general in that respect?—If we had a bar attending, I certainly would; I would do the same there as at the assizes. I think the criminal business ought to be conducted by a person responsible to the public, and of course I would get the best class of men that I could find.

1954. *Chairman*.] Exactly the same reason applies in one case as in the other?—I think so.

1955. Mr. *Miles*.] Have you ever turned your attention to the propriety of having your district agent with your grand jury, so that he might give them his advice if asked for in criminal business; do you think that would be a good plan?—I do not see any objection to it. The functions of the grand jury are, I think, very important; I should be very sorry to see the grand jury dispensed with.

with. I think that a person who is put upon his trial ought to have the protection first of a careful investigation by a public officer, the Crown solicitor, the magistrate, and so on, and the Attorney-general, and also the protection of the grand jury. I also think that it is of great importance bringing the country gentlemen to take an interest in the state and good order of their neighbourhood. Therefore, as to the district agent, whom I assume to be a respectable and intelligent person and a public officer, I think it might be very advisable to give the grand jury the benefit of his assistance.

1956. Do you not think, in fact, that it not unfrequently happens that the witnesses before the grand jury give very different evidence from that which they have given before the committing magistrate, there being no one there to watch what they do say?—Before the grand jury, except in very peculiar cases, their evidence is not sifted very strictly.

1957. It has sometimes occurred to the experience of any gentleman who has sat on grand juries in England that when they have come afterwards to look at the depositions, not having found a bill upon the evidence produced before them, they have found that the evidence which has been produced before the magistrates has been very different from that which has been produced before the grand jurors?—I believe that is so; but sometimes a good deal depends upon the taking down of the depositions; that is one reason why I thought that the magistrates should have a very competent person to take the depositions.

1958. Does not that sometimes arise from collusion between the prisoner and the witnesses for the prosecution?—Indeed it does; it requires a great deal of watching in that way, and it also requires a great deal of watching not to take down too many depositions, but only to take so much as to start the case, as I may say.

1959. If the district agent was with the grand jury, he could put all that right at once, could he not?—He could.

1960. And it would be conducive to the ends of justice that such should take place?—I think so.

1961. Mr. *Philipps.*] You would not wish it to be compulsory on the district agent to be in the room with the grand jury, but you would give the grand jury an opportunity of applying to him if they liked?—I think so; they might apply to him if they found it advisable.

1962. His presence, as a matter of course, would be objectionable?—It might be so. I understood Mr. Miles's question to be, that they should have an opportunity of getting his assistance; they probably would not ask it excepting in a peculiar class of cases.

1963. Mr. *Solicitor-General for Ireland.*] The Attorney-General in Ireland, in regulating his discretion as to what cases he will prosecute in, is of course guided by the circumstances of each case?—Yes.

1964. For instance, if he thinks that the prosecution has been got up with a view to promote some private object, he says, "Do not prosecute"?—Yes, he must consider when he orders a prosecution that the purposes of public justice require it, and that there is a sufficient case.

1965. There is a class of cases, I believe, in which he does not prosecute; for instance, offences against the Bank, forgeries of bank notes?—The Bank themselves take those cases in charge.

1966. He thinks it right that they should incur the expense?—I have been employed on the circuit in that way for the Bank; there is no necessity for a public prosecution where it is a matter directly connected with a local interest of that peculiar class.

1967. His general rule is, to see that the prosecution is for the purposes of public justice, and not to work out any private object?—Certainly.

1968. And in those cases he prosecutes?—Yes.

1969. Did you not yourself, as Attorney-General, find the sessional prosecutors in their present defective and bad state and bad organisation still a very good class of officers?—I found them an excellent class of officers, and I encouraged them in every way that I could. I encouraged them to communicate with me in any difficulties which they had, and I suggested matters for them in the way of their conduct of their cases, and they were very grateful. I think they are an excellent class of officers.

1970. But badly paid?—But badly paid. If I had had my will, I would have made

Right Hon. *J. Napier*, M. P.

26 June 1855.

made very great alterations. I had a plan. One of our Crown solicitors, an exceedingly experienced and efficient man, Mr. Seed of the Home Circuit, by my direction sketched out a good many points. I have the whole of his plan, and amongst other things a part of it was to alter the salaries of the sessional prosecutors, and in some respect to alter their duties. I intended to prohibit them from taking private practice in criminal cases, and that they should be prepared to assist the magistrates whenever they were needed; and that they should devote themselves, as far as criminal matters were concerned, exclusively to the service of the public.

1971. What was your proposed scale of salaries for those officers?—I have a scale which I could furnish to the Committee; some of them at present, I believe, are paid 70 *l.* a year, and others 80 *l.* and 100 *l.* a year.

1972. The highest, I believe, at present is 200 *l.*?—I do not know whether any one comes up to that.

1973. Or 175 *l.*, I believe?—Comparing the quantity of business done at the sessions and at the assizes, I was quite struck in comparing the way in which a man was paid for doing very heavy business, and a great deal of it very important business.

1674. I believe with us the salaries vary from 75 *l.* to 175 *l.*?—I believe so.

1975. Is it not the case upon our system, that at quarter sessions you may have the most important cases tried, transportable felonies?—Yes, and misdemeanors, a very important class of cases, and they do them remarkably well, considering how they are situated. The Crown solicitor has the assistance both of the Attorney-general's direction, and the assistance of the counsel of the circuit; whereas the sessional prosecutor has the assistance of neither; he has the informations given to him at the time, and is obliged to make the best he can of them.

1976. And he is very often paid by a salary which does not recoup his expenses?—That fact is one of the points for improvement; I think that all these things could be improved, and that the Irish system could be made a very admirable plan.

1977. The Attorney-general for Ireland has the full power to regulate all points excepting the payment; he cannot touch the Exchequer?—But the payments are a very important point; probably in some cases he might reduce. With regard to the petty sessions clerk, I thought that in all cases where informations were taken, the petty sessions clerk might make out copies of the informations, and be paid so much for it, and then return those informations to the Crown solicitor, and that the Crown solicitor, upon his responsibility, might pass them to the assizes and the sessions, taking the direction, where he required it, of the law adviser or the Attorney-general. It could be made very perfect. With regard to the Scotch system, I remember getting a book from Sir William Gibson Craig; it was a book on the Procedure in Scotland; that suggested a good many things to me as to the value of the Scotch system; that the man who starts the thing follows it up; he has an interest; he is made responsible, and all the merit of success, or the demerit of failure, attaches to him.

1978. You have mentioned that after each circuit the Crown solicitor is bound to give to the Attorney-general a report, stating the result of each case?—Yes.

1979. With his observations upon it?—Everything.

1980. So that the Attorney-general has an opportunity of seeing, from that document, whether the business has been properly conducted?—He has ample means of checking it; and by communicating with the counsel who represent him, whom I found a very superior class of men, and they communicate pretty freely to him what they see wrong.

1981. If a prisoner has been acquitted against whom there was an apparent case, the Crown solicitor in his observations ought to state some reason to the Attorney-general for it?—He does.

1982. As for instance, that there was a conflict of evidence, and the jury decided in the prisoner's favour?—Yes, or that some witness was improperly spirited away.

1983. And when the Attorney-general gets that report, it is his privilege to make such observations as he pleases upon it, commenting upon the conduct of the prosecution, or otherwise, for the future direction of the Crown solicitor?—Yes, that is his duty.

Mr. *Samuel Wilkinson*, called in; and Examined.

Mr. *S. Wilkinson.*

26 June 1855.

1984. *Chairman.*] WHAT are you?—A Solicitor.

1985. You are also town clerk of the borough of Walsall, are you not?—Yes.

1986. How long have you been so?—About seven or eight years.

1987. How long have you been a solicitor?—A little longer; nearly 10 years.

1988. Have you during that time had much experience in criminal business?—Yes, pretty well.

1989. In your opinion, does the present system of the administration of criminal justice require improvement?—I think it does.

1990. Will you be good enough to tell the Committee in what respects?—That has been elaborately gone into by the previous witnesses; my experience comes pretty much to the same result as that of the witnesses who have been previously examined. I think there is frequently a failure from the want of some competent party to make a searching investigation, even before the case comes before the magistrates. I can recollect a number of instances within a short period in which, for the want of some party having had the conduct of the case, there has been an evident failure. Then, again, for the want of a similar officer, prosecutions have been instituted with a view to obtain personal and selfish ends, and the criminal law has been used for that purpose; such, for instance, as a prosecution, where a warrant has been issued, and the warrant not handed to any officer, but retained in the private custody of the prosecutor, and suspended over the head of the offender until money, probably, has been paid. I do not assert that, but that is my belief; and then no appearance is made by the prosecutor.

1991. Both classes of cases which you have mentioned have happened within your own knowledge?—Yes.

1992. The failure of justice in those cases was from the want of a competent person to manage the prosecution, and also the abuse of justice for purposes of extortion?—Undoubtedly.

1993. Will you be good enough to say whether you agree with this statement, that the consequence of the present system is very often to fling the management of prosecutions into the hands of a lower class of practitioners?—More generally my experience goes to this, that it is left to take its chance.

1994. Merely leaving it to take its chance, creates an opportunity for a scramble among the lower class of practitioners, does it not?—That is so, more particularly as to counties than to boroughs.

1995. Do you know instances where policemen have been in the pay of attorneys?—I cannot say that.

1996. Do you believe that it is the case, that attorneys have given fees to policemen to bring to them prosecutions?—I cannot say that.

1997. Have you any doubt that such is the case?—I think it is likely, but I have no personal knowledge of it.

1998. With regard to the escape of criminals; is it your opinion that criminals escape from the want of a person directly interested on the part of the public in the management of the prosecution?—I have no doubt of it; I have two or three cases in my mind at this moment. One particularly, of a very serious robbery, in which a poor man was robbed of all the property he had in the world; a poor Jew. He had a box of jewellery, worth about 20 *l.*, stolen from him, and from the want of some investigation at the time the prosecution failed. The parties were arrested, but the principal witnesses got out of the way, and they were tampered with by friends of the prisoners. I was concerned in the case, and I have, therefore, full means of knowing; and I am satisfied that justice failed there entirely from the want of somebody to have taken charge of the case in the first instance.

1999. Some one to whom the injured person might have gone and said, "I have received such an injury; do you investigate the facts"?—Yes.

2000. With regard to the outlay which is sometimes requisite by attorneys in prosecutions, is it within your knowledge that it is often necessary for an attorney conducting a prosecution to advance money for the purpose of procuring the requisite evidence, and so forth?—Yes, he has to do that sometimes.

2001. In your opinion, is that an evil?—I cannot say that I know any particular injury to have arisen from it.

Mr. *S. Wilkinson.*

26 June 1855.

2002. Suppose an attorney were to say, "I would rather not undertake any such risk" ?—It would be an evil then.

2003. A poor man could not guarantee him his expenses, and there might very well be a failure of justice ?—There is no doubt in the world that many prosecutions are not gone into, on account of the poverty of the prosecutor; he will not undertake the labour and trouble and cost of the prosecution, because he has not the means.

2004. That applies to many prosecutions, which it is for the interest of society should be investigated ?—Undoubtedly.

2005. You think that there is no doubt that many such cases are not investigated at all, on account of the poverty of the prosecutors ?—I do.

2006. What is your opinion upon the subject of allowing the expenses of witnesses for prisoners; do you think it desirable that prisoners should be allowed to call witnesses to fact at the public expense ?—I think it is a power which should be exercised with very great care.

2007. You think it should be left to the judge ?—Yes; I think it should be left to no one but the judge, who in every case should give an express order; the money should not be paid as a matter of course; I think it would otherwise be liable to great abuse.

2008. I am not speaking of witnesses to character, I am speaking of witnesses to fact; is it your opinion that by that precaution of vesting the power in the judges to grant or withhold the expenses, as he thought proper, such a power might safely be conferred ?—Yes; and I think then it would promote the ends of justice.

2009. Is it within your knowledge that policemen are often employed for the management of prosecutions ?—Undoubtedly; ordinarily it falls to their lot to do it.

2010. Do you think that they are a proper class to be so employed ?—Certainly not.

2011. Mr. *Miles.*] Do you act as magistrates' clerk ?—I do for a small sessional division of the county as well as town clerk for the borough.

2012. What county ?—Stafford.

2013. Are all the criminal cases conducted at sessions by attorney and counsel in that county ?—I think they are; I am not sure that attorneys are employed, I rather think that attorneys are not employed at the sessions, because the briefs are delivered out by the clerk of the peace.

2014. The depositions are sent to the clerk of the peace, and are then handed over to the counsel ?—Yes.

2015. That is the general practice ?—That is the rule.

2016. You stated that you think an attorney or a district prosecutor should be employed for the sake of getting up cases, and that there is frequently a denial of justice, and that at the same time cases often break down from the failure of the attendance of witnesses; how is that to be altered any more than it is now, supposing a public prosecutor should be determined upon ?—In this way: the prosecutor goes to the magistrates' clerk's office and obtains a warrant; before the time of hearing, the friends of the party arrested have been with him and softened him, or it may be that they have used improper means to do it, and he makes no appearance; therefore the prisoner is discharged. The magistrates can do nothing with that; but if in the first instance, instead of having to apply to the magistrates' clerk he had to apply to the public prosecutor, the public prosecutor would then inform himself of the evidence on which the charge was founded, and he would, I apprehend, enforce the attendance of these witnesses.

2017. How would he enforce the attendance of those witnesses ?—By summons.

2018. We are talking now of the trial. When the trial takes place the prosecution breaks down from the failure of a witness; that witness being a material witness to the case is spirited or kept out of the way, and the consequence is, that the prosecution breaks down; how would you meet that so as to render the attendance of such a witness certain, supposing you had a public prosecutor ?—I am speaking first as to the petty sessions; it is there that the failure principally takes place, because the prosecutor does not from some motive or other persevere with his charge; several days may have elapsed between the time of the apprehension, in the first instance, when perhaps his feelings of resentment were at full swing, and the time of the hearing before the magistrates something has happened to keep him from prosecuting the charge.

2019. Then

2019. Then the observations which you previously made were with reference to the transactions which take place at petty sessions?—Chiefly in reference to that.

2020. If not chiefly, can you tell me how a public prosecutor could keep the witnesses better together than the attorney could, or how they might be kept together by being bound over to appear?—It is not necessarily as to their being kept together, but as to being summoned, in the first instance. Supposing a competent authority had charge of the case before the magistrates, it would be his duty to see that there was a sufficient amount of testimony. Sometimes magistrates commit on an amount of testimony which the jury think insufficient. A public prosecutor would have insured the attendance of witnesses, whom the magistrate has had no opportunity of examining or of binding over.

2021. Where the magistrates have sitting immediately under them a gentleman who is an attorney-at-law, conversant with criminal business, do you think that, generally speaking, they commit upon such evidence as in all probability would not lead to a conviction?—I will not say generally speaking, but I have no doubt it frequently happens.

2022. Have you looked over this Bill?—I cannot say that I have looked at it very closely; I have cursorily looked at it.

2023. Would you go any further than having a district prosecutor, to whom in cases of difficulty the magistrates might apply?—I cannot say that I have studied the subject very closely, but certainly I have come to this conclusion long ago, that it is not for the interests of public justice that its enforcement should depend upon mere private impulse or passion; and that seems to me very much the case now.

2024. Is that the case in the immediate locality which you know?—It is so in many instances; I do not mean to say there are not instances in which parties do not prosecute merely from feeling.

2025. And the cases are so many as to lead you to think that a change in the administration of justice is desirable?—The cases are so many of the withdrawment of prosecutors from one cause or another, that I do think it is desirable.

2026. You have a police in Stafford, I think?—Yes.

2027. Do the police conduct the prosecutions in many cases in your county?—At the petty sessions sometimes there are attorneys.

2028. But the police go no further than petty sessions?—I think not.

2029. Then so far as conducting the cases at the petty sessions they are useful, are they not?—They are better than nobody, I think, but in that respect only they are useful.

2030. If they did not bring prosecutions at the petty sessions, who would?—Then the prosecutor would obtain his warrant from the magistrates' clerk's office, and he would act himself with no attorney, bringing such witnesses as he thought necessary.

2031. But in some cases where caption takes place immediately upon a criminal offence, the police of necessity become the prosecutors?—They do; but even then sometimes there is a failure; I know of an instance which occurred very lately.

2032. *Chairman.*] Do you know anything about the practice at Stafford?—Yes, some little.

2033. Do you not know that there are many proceedings which are quite scandalous with regard to the police at Stafford; that it is the subject of general complaint?—I hear it by way of rumour, but personally I have not had very much to do with the criminal business of Stafford.

2034. Mr. Miles has asked you about a public prosecutor keeping the witnesses together; would not it be the fact that if there was a public prosecutor, the witnesses would know that if they did not appear there would be somebody to punish them afterwards for it?—Yes, and besides that, this seems to have been overlooked, that if there were a public prosecutor, the attendance of witnesses in the first instance at the petty sessions would be secured, and a sufficient number of them to make out the case; but if, instead of five, there are but four, and the fifth is an important link in the chain, and there is a committal upon that, and that fifth party never appears, he has never been bound over by the magistrate; he has never been asked to attend.

2035. The prisoner is committed upon evidence which is *primâ facie* sufficient for the magistrate, but not sufficient to secure his conviction?—Yes.

2036. At present, if a witness stays away who should attend, it is not any one's business to look after him?—Frequently.

Mr. S. *Wilkinson.*

26 June 1855.

2037. Mr. *Miles.*] If he does so, does he not forfeit his recognizances?—Not if he fails to attend in the first instance.

2038. In the second instance, when called, if he does not appear to give his evidence, are not his recognizances estreated?—Undoubtedly.

2039. Is that an efficient way of making a witness attend?—No doubt.

2040. *Chairman.*] The case which I put was the case of a man who, from some mistake, had not been called upon, and who had not entered into recognizances, but whose evidence was still important; are not such cases very frequent?—Very.

2041. If such a man stays away, there is nobody to look after him, and nobody knows anything about him?—No.

2042. Whereas, if there was a public prosecutor, he would know if a man had misconducted himself?—Yes, and the man would be there in the first instance, and would be bound over along with the others.

2043. Mr. *Solicitor-General for Ireland.*] If a witness is bound over and summoned, and fails to appear at the trial, is there any one whose proper duty it is to see that his recognizance is enforced?—Yes.

2044. Who is that?—The clerk of the peace.

2045. By whom is it enforced?—The clerk of the peace makes a return to the sheriff.

2046. What does he do upon that return?—He levies for the amount of the recognizance, and, failing to obtain it, apprehends the party.

2047. Mr. *Miles.*] Is that often practised?—It is, occasionally.

2048. Is there not a good deal of difficulty in that?—There is.

2049. And do not those difficulties lead to a failure of justice?—I think not. In the course of three or four years I have had to do it as clerk of the peace of the borough of Walsall several times; but I must say, in two instances, I think, the sureties of the parties were never found, so that it was a failure so far.

2050. Do you see any objection at all to the judge or the chairman presiding at quarter sessions, issuing process?—None in the world. I think it would be much more effective.

2051. Do you not think that it would lead to the attendance of witnesses, and that the law would be certain to be carried into effect?—I think it would; but I do not think there is much failure of justice from the want of attendance of those witnesses who are in attendance in the first instance. At the petty sessions they may not be bound over, but where they are bound over, there are very few instances in which they fail to attend, so far as my experience goes.

2052. In the primary case would you have your district prosecutor attend at the petty sessional division when the preliminary evidence is taken?—That seems to me to be a most important stage.

2053. Looking to the immense number of petty sessional divisions, would not that lead to an enormous expense if you had a gentleman conversant with his profession?—I think there could be some means by which it could be ascertained beforehand whether there was any business of importance. Sometimes a petty sessions will be held when there is no criminal business.

2054. Have you ever thought of what, upon the average, the expense would be?—It has never struck me. I think a single officer could take a considerable area, if he did nothing else.

2055. Would you pay him by fees, or by salary?—By salary.

2056. Should he be exclusively engaged in that public business, or would you allow him to be engaged in private business?—That would depend upon the extent of his district.

2057. *Chairman.*] In your opinion, does it often happen that frivolous prosecutions are set on foot for the sake of the costs, under the present system?—I cannot say that I have seen that.

2058. Not in your borough?—No.

2059. Do you believe that it happens?—It has not, in my experience, happened in my borough.

2060. Not within your personal knowledge?—No.

2061. Whether it happens or not elsewhere you do not know?—No; I have often known of collusive compromises, undoubtedly.

Jovis, 28° die Junii, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. Napier.
Mr. Attorney-General.	Mr. Philipps.
Mr. Solicitor-General for Ireland.	Lord Stanley.
Mr. William Ewart.	Mr. Miles.

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

Horatio Waddington, Esq., called in; and Examined.

H. Waddington, Esq.

28 June 1855.

2062. *Chairman.*] YOU are Under Secretary of State at the Home Office?—I am.

2063. And had been before that time for a considerable period practising as a barrister?—I had for a great many years.

2064. Will you be good enough to say whether in your opinion any improvement would take place in the administration of criminnl justice by the appointment of a public prosecutor?—I am afraid, before I could express a decided opinion upon that subject, that I must ask for some explanation of the nature of the plan by which a public prosecutor is to be appointed.

2065. Are there any evils in the present system which you think require alteration?—Yes; I think there are undoubted evils in the present system.

2066. Will you be good enough to point out what they are?—I think the great objection to the present system, or rather the absence of system, is the entire uncertainty in what mode a particular prosecution may be followed out; one system prevails in the metropolitan districts, another system prevails in counties where there are police; there are hardly two boroughs, I believe, in which precisely the same system is adopted, and, generally speaking, I may say that the mode in which a person will be prosecuted who is accused of a particular offence will depend, not upon any general practice established by law, but upon some accident connected with the jurisdiction within which the offence is committed. That may be illustrated, but I dare say the Committee is already in possession of facts which illustrate it.

2067. We shall be much obliged to you for any facts which occur to you?—I may state that in the metropolitan districts, generally speaking, no attorneys attend the courts to carry on and undertake the prosecutions, as is done in the country by the magistrates' clerks. The Committee is aware that the clerks to the metropolitan magistrates are not attorneys, and do not practise. There are no attorneys who attend those courts, I believe, who are at all regular practitioners at the Central Criminal Court or at the sessions, and the result is that the police are bound over to prosecute in most cases, unless in cases connected with property, where there is a prosecutor who is willing to take the prosecution upon himself; but, generally speaking, for the ordinary sort of offences, the police are bound over to prosecute, and it is only in certain cases that an attorney is employed. I may mention that there are certain cases in which, when the police apply to the Secretary of State for legal assistance, it is given them; but those are extremely few. I can give the Committee, if it is thought desirable, the actual numbers of them; I have had them made out, but they are so extremely few that they can hardly be considered as being an exception to the general rule. They are confined to cases of murder and manslaughter, and to cases of violent assaults upon the police themselves. In those cases the police, when they are bound over, almost invariably apply to the Home Office for legal assistance; they generally get a recommendation from the committing magistrate, and I have always required that the application should be accompanied by the depositions in the case; and if, upon the perusal of those depositions, it seems to me that it is a case in which public justice requires that attorney and counsel should be employed, I always advise the Secretary of State to give that assistance, and it is always done; but those cases

H. Waddington, Esq.

28 June 1855.

are so extremely few, that I think they may be considered as being a very small item indeed. In London, therefore, almost all the cases are conducted by the police up to the moment of a bill being found by the grand jury; and the judge sometimes, I believe, at the Central Criminal Court, and also at the Middlesex sessions (particularly when counsel are employed for the defence), points out that it is a case in which counsel should take part, and the depositions are handed to counsel, and the expense is allowed by the officer of the court upon taxation.

2068. Does it appear to you that such a practice as that which you have described must necessarily lead to a failure of justice in many cases?—I should have thought certainly, *à priori*, that it would have led to a greater failure of justice than I understand it really does. I was going to observe that, strange as that system appears to be, still I have not in my official position heard any complaints of a serious and general failure of justice. Though it certainly would appear that it is a very loose mode indeed of conducting the criminal business of the country, yet I am not prepared to state, from any complaints which have come to my knowledge, that the cases are so badly conducted as to lead to any decided failure of justice. I may also add, that in the great number of cases which are brought under the review of the Secretary of State, which are tried at the Central Criminal Court and at the Middlesex Sessions, in which we always see either the depositions or a printed report, it does not seem to me, from reading those, that there is frequently any great want of care in getting up the case; the evidence generally seems to be tolerably well arranged, and the proofs are of very much the same nature as we find in the cases which are tried at the assizes, where they are, generally speaking, got up by attorneys. But I believe it varies in some counties; even with respect to the assizes; attorneys are not invariably employed, I believe, even there.

2069. The magistrates in the district to which you alluded just now are generally professional men, are they not?—All of them.

2070. That would perhaps account in some way for the evidence being sufficiently accurate without any interference of an attorney, would it not?—Certainly; that is a very great advantage, no doubt.

2071. The objection would apply then with greater force in cases where the magistrates are not professional men?—Undoubtedly. It is impossible, I think, for any one to say how it would work, supposing the magistrates in London were not professional men.

2072. Do you consider the police, in whom so much trust is reposed by the practice now prevailing, to be a proper body of men to exercise those functions?—One should say, certainly, *à priori*, that they ought not be the persons who should conduct the prosecution, but that their functions should be confined to investigating the case, finding out the witnesses, and taking care that they appear at the proper time and place; that they should not be the persons for marshalling the evidence. I should undoubtedly say so. But still, I think that the police do exercise generally a great deal of skill and a great deal of good judgment in the mode in which they do it. Probably the Committee would get better information upon that subject from the gentlemen who preside at the Middlesex Sessions and the Central Criminal Court. I have certainly heard no complaints of the conduct of the police, but it is a very great responsibility to throw upon them undoubtedly, and we have proved our sense of that by granting them legal assistance in the more important cases in which it has been thought (in a case of murder, for instance) that it would not be desirable that it should be left entirely to the policeman who is bound over to prosecute to prepare the case and conduct the case.

2073. On what system does the Home Office proceed in granting assistance; Mr. Reynolds told us that he could not give us a very accurate account of it; have you any particular rule by which you are guided in giving or withholding legal assistance?—The history is a short one, and I can give it. When the metropolitan police was established, which was in the year 1829, the magistrates commenced the practice of binding the policemen over in these serious cases; they used before that to bind over the overseers or parish officers to prosecute. I am speaking of cases of murder, which are very rare, I am happy to say. When the policemen were bound over, they very naturally applied, through the commissioners of police, to Lord John Russell, the then Secretary of State, for legal assistance; there was some hesitation in granting it at first, but it was done and went on. In the first instance, those prosecutions, the police

prosecutions, were conducted by Mr. Stafford, the clerk of Bow-street, the Government paying the extra expenses out of the police funds, but not employing themselves any Government solicitor to get up the evidence, or to conduct the prosecutions. The next change was, that a gentleman of the name of Hobler was employed in conducting them; he went on, I think, till Mr. Vizard was appointed, which was about the year 1839. Mr. Hobler conducted the case of Courvoisier, which was taken up as a police prosecution; these were then called police prosecutions; they were not conducted by the Government solicitor, and the costs not allowed by the court on taxation were paid, and indeed are still paid, out of the police funds. Mr. Vizard was appointed in the time of Lord Normanby, as solicitor to the Home Office, as distinguished from the solicitor to the Treasury. He conducted these prosecutions for a short time when he was solicitor, one of them being the celebrated case of Lord Cardigan, which happened in his time. When Mr. Vizard's appointment was put an end to, which was about the year 1841, they were transferred to the Treasury, and from the year 1841 up to the present time the solicitor to the Treasury has conducted them, and occasionally has employed the law officers of the Crown in important cases, the Attorney and Solicitor-general, to conduct the cases at the Central Criminal Court, which was not done until it came into the hands of the Treasury solicitor. The principle on which legal assistance is granted is precisely the same now as it was in the first instance. It is granted only in cases of violent assaults upon the police, where the magistrate thinks that counsel should be employed, and in cases of murder and manslaughter. I have had a short list made for the last five years, of the actual number of cases.

2074. Suppose a case where a poor workhouse child was savagely treated, without any one to take up the case, would you interfere in such case as that?—I cannot quite answer that question. I am very much inclined to think that I should, according to the present practice.

2075. Have you ever been applied to in such a case?—Not in the metropolitan districts. There was a case in the country.

2076. The case of the Birds?—Yes. That was an entire exception to our general rule; but it was a case which I thought myself justified, under the very peculiar circumstances, in advising the Secretary of State to take up as a Government prosecution.

2077. How was it brought under your notice?—It was brought under our notice by an application, in the first instance, from the magistrates in Devonshire; they wished us to take it up in the first instance as a Government prosecution; it was a prosecution for murder. The Committee are aware that the husband and wife, who were the masters of the poor child, were first tried for the murder. This being a poor workhouse child, the magistrates applied to the Government to take it up as a Government prosecution. That was declined, upon the ground that the Government has invariably refused to conduct prosecutions at the assizes, except in cases connected with the public peace; and no doubt if that had been adopted, we must have followed it out in other cases. The Committee are aware of the trial of the Birds, and of the ground upon which they were acquitted. Then we were informed, and very justly, that the only thing which remained was to indict them for an assault, and even that was subject to a very doubtful and difficult point of law, whether they could not plead, as an answer to the indictment for an assault, their previous acquittal. I was consulted at the moment, and it struck me as such a very shocking case, and so great an evil to the public if these parties were not punished, so far as the law would allow, that we did depart from the general rule. Perhaps I was wrong in that; but though I thought the point of law a very doubtful one, I certainly supposed we should succeed in it, (which we ultimately did, though by a very small majority of the judges,) and therefore I gave instructions in that case. That was a poor child; and in an indictment for an assault the costs would not have been allowed, and therefore it was impossible to suppose that any one would prosecute it unless the Government did.

2078. If no such application to the Home Office had been made by the magistrates, supposing it had not occurred to them to do so, the thing would have taken its chance?—I think so.

2079. And the prosecution for the assault, which you think most properly so essential to the administration of justice, would never have taken place?—No.

H. Waddington, Esq.

28 June 1855.

2080. Which would have been a great evil, would it not?—I think so. I think it would have been a national disgrace.

2081. Judging not only from your experience as Under Secretary of State, but from your experience while at the Bar, does it happen that the want of a public prosecutor leads to collusive prosecutions?—I think it does. I think that the appointment of a public prosecutor, supposing that the public prosecutor would have the power of a veto, would prevent prosecutions for the purpose of extorting money, which undoubtedly are unfortunately brought now.

2082. They are not uncommon?—They are not very common, I hope, but still they do unquestionably take place occasionally.

2083. Do you think also that there are scrambles among low attorneys for the management of prosecutions in country districts?—I should think it very possible. I hope not frequently; for I have generally understood that respectable gentlemen who are clerks to the magistrates have, in most cases, the conduct of prosecutions; that used to be the case in the counties on the Midland circuit.

2084. If that were not so, the consequence would be mischievous, in your opinion?—I think so undoubtedly, if the prosecutions got into the hands of an inferior class of attorneys, that so far would be an evil.

2085. We had the evidence of the chief constable of Stafford. Stafford being, as you are aware, a very populous district, and he said that there was a perpetual scramble among low attorneys for the prosecutions?—I am not at all prepared to contradict that.

2086. Also Mr. Trafford, who came from Manchester, said that he had adopted a system which had put a stop to it, but that, before he had adopted that system, that had been the case in Manchester, the district where he was magistrate. Supposing that to be the case in many parts of England, would such a system contribute to the independence of the Bar?—No; it would be bad, I think, in every respect; it would be impossible for anyone to defend it. If possible, the person conducting the prosecution should be responsible to some authority; and therefore, though some people have frequently complained of the magistrates' clerks conducting prosecutions, I confess I never was of that opinion. The magistrates' clerks being under the immediate eye of the magistrates, I think it very desirable that they or their partners should conduct the prosecutions, they holding their offices only at pleasure.

2087. Does not that give to the magistrates' clerk a great interest in the number of prosecutions?—To a certain extent, no doubt, it might have that effect, but I should hope it has not.

2088. In the evidence which was taken before the Committee upon the administration of criminal law, some years ago, several witnesses stated distinctly, that in their opinion that system led to many frivolous prosecutions?—I cannot undertake to say that it may not, in some instances; but I confess that I think, if that evil had been at all widely spread, we should have had serious complaints of it at the Home Office. We have had complaints of it, undoubtedly, but very rarely; we have had as many as one or two in a year, or something of that sort. I think the complaints have generally come from rival attorneys, which would rather, perhaps, bear out what you have said about the attorneys scrambling.

2089. There is another part of the subject to which I wish to call your attention; namely, the necessity under which attorneys often are of advancing sums for the management of prosecutions; do you think that a state of things which is desirable?—I do not think that a desirable thing, certainly; but I am not aware of any great evils which have arisen from it.

2090. We were told the other day by an attorney who seemed to be in some business (Mr. Hobler was the gentleman who gave us that evidence), that if a poor man came to him to conduct a prosecution requiring expense, as many do, if he found that the individual could not afford to advance him the money he should decline having anything to do with the prosecution?—I should think that might be so, and undoubtedly that would be one argument in favour of a public prosecutor, that supposing a poor man wished to prosecute in his own case, which the law at present allows, he would not be able to do so with the same success and the same facilities as a man of larger property; it tends to a certain irregularity, no doubt, in the administration of justice.

2091. Is it not impossible to exaggerate the importance of the purity of the administration

administration of criminal justice?—I think nothing can be more important than that, certainly.

2092. What is your opinion of the system of appointing district agents very much in the manner of the county courts, they being appointed on each circuit, say two barristers. Supposing such persons were appointed to conduct prosecutions, and also that some officer was invested at each petty sessions with the duty of sending the depositions to the district agent, would such a system, if adopted, in your opinion add very much to the expenditure of the country in the administration of criminal justice?—That is a question which I am not in a situation to answer. The present costs of prosecution vary so excessively in different parts of the country, and are altogether so very anomalous, that it is impossible to say whether a new system, if it were uniform, might not, though more expensive in some cases, be less upon the whole.

2093. That anomalous state of justice is in itself an evil, is it not?—It is not calculated to promote the interests of justice; but it may not be such an evil as is supposed.

2094. In your opinion, would it be desirable that the prisoner should have the power of calling witnesses to fact, and that if in the opinion of the judge who tried the case the witnesses were honest witnesses, and witnesses who spoke to material facts, their expenses should be allowed?—That would be a very humane provision indeed, and one which I should be most happy, I am sure, to approve, if it were not likely to have very serious effects upon the administration of justice. It is quite a novel principle in the English law undoubtedly.

2095. You are aware that by the French law the *Procureur du Roi* has sent to him by the prisoner the witnesses whom he wishes summoned, and the *Procureur du Roi* always summons them. That does not apply to witnesses to character, because it is very remarkable that in the discussion upon the French code, they found that the system had been to summon witnesses to character, but that there had been such an abuse from it that they abandoned it. In your opinion would the evil of such a system outweigh the good?—I cannot give a decided opinion upon that subject; my experience both at the Bar and since has been that it is extremely common, under the present system, for prisoners to call perjured witnesses for the defence, and there can be no doubt that paying their expenses would be an encouragement to that; which is at present an evil. I should certainly hesitate to make so important a change; but at the same time upon the face of it, it appears so very just and fair that the witnesses for the prisoner as well as for the prosecution should be paid, that I should be unwilling to condemn such a proposition entirely; it is, I think, a matter of very considerable doubt.

2096. You are not aware that it is the fact that that system prevails in America?—I am not, nor am I aware how it is in France, whether they pay the witnesses.

2097. They do. Does not it appear to you as a matter of abstract justice, that a prisoner has a right to call upon society to furnish him with the means of proving his innocence?—I really do not know that that could be made out as an abstract proposition. I think if you give him that right, he has also a right to have counsel and attorney employed for him.

2098. Has not society as deep an interest, in your opinion, in proving the innocent to be innocent, as in proving the guilty to be guilty?—I can hardly answer that question. The interest of society, no doubt, must be to get at the real truth of the case; but you cannot put it precisely in so simple a form as that, because we know that, particularly in our system, which requires the jury to be unanimous, if you were to enable the prisoner to put forward a plausible defence, it would very frequently produce the acquittal of a guilty person. We unfortunately know that that takes place at present. If we had the French and the Scotch system of taking a majority of the jury, there would be a stronger reason for the proposal.

2099. Does not it strike you as a great anomaly that the wealth or poverty of a prisoner should have any effect upon his means of proving his innocence in a court of justice?—I cannot say so, because I know that the property of persons even in civil suits, has frequently a very great effect upon the mode in which their case is conducted, and its ultimate success.

2100. Is it not desirable that that should be reduced to the utmost possible limits?—It would be desirable, unless you introduced other evils of a counterveiling description.

H. Waddington, Esq.

28 June 1855.

2101. As I understand you, you say that you do not feel inclined to give any positive opinion upon the subject, whether it would be desirable or not?—I should be sorry to pronounce a positive opinion, but I must say that at present I should hesitate to introduce such a change. I think it would lead to very serious consequences, if we maintain our law of requiring a unanimous verdict; that, no doubt, has now a very serious effect upon the administration of justice, of which, as we all agree, the object ought to be to arrive at the truth, no doubt a great number of guilty persons are now acquitted; and if you gave them greater advantages, I should really tremble.

2102. If there were no longer a necessity for a unanimous verdict, would that alter your view upon this particular subject?—It would undoubtedly take away that objection; I do not think it would entirely alter my view, but it would, to that extent, modify it.

2103. Is it not very painful to hear a prisoner in a court of justice, whether truly or falsely, say that he could not afford to keep his witnesses, or that he could not afford to bring his witnesses?—No doubt.

2104. Do you not think that such an argument as that has often a certain effect upon the jury, particularly if put by an ingenious counsel?—Yes, supposing the jury to believe it; but I should myself hesitate to do so upon the mere statement of the prisoner; it would have very little effect upon me; still juries, no doubt, sometimes do act upon it.

2105. It might be true in some cases?—It might be, and that would be an unfortunate thing. I may mention, that we have a vast number of applications to the Home Office for pardon upon that very ground; indeed, it is continually put forward, and, I am afraid, very frequently without the least foundation in point of fact; that there have been such cases I believe and know, because we have had them subsequently investigated by the committing magistrates, who have very kindly undertaken to do it, and they have changed the aspect of the case, no doubt. I think it right to mention that; but those cases have been extremely rare; perhaps not more than one in comparison with a hundred where the statement has come to nothing.

2106. You cannot give the exact proportion, but you say it is inconsiderable?—I cannot; I should state that the majority of cases in which it turns out not to be established is very large, because as I stated, it is made use of so frequently, it is quite a common form. "If I could have got my witnesses, I could have proved so and so."

2107. Suppose the fact of a very poor man being innocent; suppose that by very great exertions he brings witnesses and establishes his innocence, do you not think it a hard thing that he should have to pay the expense of bringing those witnesses?—No doubt; and if it could be confined to those cases only, and if we paid the expenses in those cases, I should be most strongly in favour of it.

2108. Mr. *Attorney-General.*] Do you not think it might be safely left to the public prosecutor, upon the prisoner stating the case which he proposed to prove, and the public prosecutor feeling that there was a reasonable possibility that that case might turn out to be correct; might it not be left to his discretion, subject to an appeal, in case he decided against bringing of the witnesses at the public expense, to the court before whom the prisoner was tried, so that the man might be relieved from this possible, and where it happens, most painful position, that he is conscious of his innocence, and has witnesses by whom that innocence can be established, but no pecuniary means whereby he can bring them to the trial; is not that a great grievance, and a state of things which ought in some way to be remedied by the public?—I think it ought; do you propose that the public prosecutor should have the power to put off the trial?

2109. Just so: or that it should be done before the trial came on. Might not there be some mode adopted whereby the evils of abuse might be prevented, and at the same time the great grievance of a man being able to prove his innocence if he had the means, but who is without the means?—It would be most desirable that such an attempt should be made, certainly; and undoubtedly if a public prosecutor should be established, that would be an argument in favour of it; namely, that it would give a mode of attempting to make arrangements of that sort; how far they would turn out to be practicable, I can hardly say. I do not know whether anything of the sort is done in Scotland.

2110. *Chairman.*] I think the Lord Advocate told us that in most cases he had

had the discretion of calling witnesses, and did call witnesses for the prisoner?—That raises another question which has often occurred to me, namely, the power of adjournment of a trial in a criminal court after it has commenced; the absence of that power frequently leads to acquittals which should not take place.

2111. Mr. *Attorney-General.*] I dare say it has come under your knowledge that a judge when he holds official functions, as recorder and so on, is sometimes placed in a painful position, and he has no power of adjourning the trial?—Certainly.

2112. Mr. *W. Ewart.*] Have you many instances at the Home Office of a sort of appeal made to the Home Office in consequence of proof in favour of the prisoner not having been given?—Yes, very frequently. One great cause of complaint, which the gentlemen of the bar will easily understand, is, that the prisoners have witnesses present and that their counsel decline to call them. That is one of the most frequent complaints, I think; and that puts us in a painful position; but still we have no hesitation whatever in saying that they must abide by the acts of their counsel, unless they can show grounds to induce the Home Secretary to make some further investigation; to desire the committing magistrate to hear what the witnesses have to say. That has been done in some cases, when many of the respectable persons in the neighbourhood have come forward and stated that there was a strong opinion in favour of the parties.

2113. Suppose, after the trial, circumstances are stated which may induce the belief that evidence has not been given for the prisoner?—That is the case which I put where the prisoner had actually witnesses in attendance, and where the counsel, to avoid a reply, which probably is the usual reason, and perhaps fancying that they might not prove what was stated, declined to call them.

2114. In such a case is the case sent back?—No, we have no power to do that. We endeavour to get out the facts as well as we can, in a very insufficient way I admit, and it is only where the case comes out very clearly and with the approval of the committing magistrate, or of more than one if we can obtain it, that we grant a pardon.

2115. Who sits in judgment upon such facts?—The Secretary of State is the only person.

2116. In his own office?—Entirely.

2117. Is not that an exception to the universal rule of English justice that trial *pro tanto* shall have publicity?—It is an entire exception to the rule, and can hardly be considered as a trial.

2118. I call it a sub-trial?—Most undoubtedly; still it has to a certain extent the effect of a trial, because it very often throws doubt upon the evidence of some of the witnesses for the prosecution, and that is a very painful part of it; you are obliged to throw doubt upon those witnesses without hearing them in open court.

2119. That would touch upon the question of a court of criminal appeal?—It would, no doubt.

2120. Upon the whole, are you of opinion that such a public prosecution as has been referred to would be advantageous to the country, to public justice, to the protection of innocence, and the detection of crime?—I am inclined to think that it would. I mean the system of public prosecutors which I should propose myself, not a number of irresponsible agents, but a minister of justice at the head, who should be a person of very high legal attainments, and upon the same footing as the Secretaries of State, corresponding with the Minister of Justice in France, and to whom all these agents should be responsible, he being responsible to the public; such a system, if carried out very carefully in all its details, would be an improvement.

2121. And would you mingle with the elements of the French system to which you have alluded, the elements of our English institutions, that such minister should be a member of the Legislature, responsible to Parliament and to the public?—It would be a very great responsibility, and I should like to put him in as eminent a situation as possible. I do not think it is necessary that he should be a Member of Parliament for that purpose. I cannot give a decided opinion upon that. I think he should be a very high minister.

2122. *Chairman.*] Not differing from you as to the existence of a minister of justice, which I think desirable, does not the Attorney-general, as the matter

H. Waddington, Esq.

28 June 1855.

stands, discharge the functions of a minister of justice?—I do not think the Attorney-general, with his other functions, is able to do it. The Lord Advocate of Scotland undoubtedly can do so; but the duties of the Lord Advocate of Scotland are very different from those of the Attorney-general.

2123. The Attorney-general is the person really responsible, because all prosecutions being conducted in the name of the Crown he can go down at any moment?—He is not practically responsible, because he has nothing to do with them; but the minister of justice that I propose would have to exercise his discretion in all cases of any importance.

2124. Not in individual cases?—No, not in all individual cases, but in important cases; and I think that would be quite sufficient for one person.

2125. Would you take away from the Attorney-general the power which he now has in that respect?—That no doubt would be one of the difficulties, to reconcile the duties of the Attorney-general as public prosecutor, who exercises a discretion in certain grave cases, with the discretion of the minister of justice. If that were to be done, I think the better plan would be, to put the Attorney-general in the same situation as the *Procureur-general* in France, and to make him subordinate to the minister of justice. I think that would necessarily follow.

2126. Mr. *Attorney-General.*] If there were a minister of justice, the Attorney-general would be immediately responsible to him?—Precisely; and all the inferior parties would be responsible to the Attorney-general as the *Procureurs du Roi* in France are; I believe there are a vast number of them. I confess I should be very unwilling to make a change at all, unless we introduced a complete system of that description. Even then I do not mean to say that it is not open to very great objections. There is the objection of its throwing additional responsibility upon the Government; there is the creation of a vast number of places, which of course must be an increase of patronage to the Government. I am only expressing my opinion. I think that that plan, in so far as the administration of justice is concerned, would be an improvement.

2127. *Chairman.*] The administration of justice being the chief object for which society exists?—It is one of the chief objects, no doubt.

2128. Mr. *Philipps.*] I think you have said that you are not prepared to state from any facts within your cognizance, that there is any general failure of justice?—I am not; I have been undoubtedly surprised, knowing the irregularity of the system, at there being so few complaints.

2129. From any facts within your own cognizance, are you aware of any general discreditable scramble for business amongst attorneys?—No; I have had occasional complaints, but I have stated, generally speaking, that I thought the prosecutions at the assizes were carried on by respectable attorneys.

2130. Mr. *Attorney-General.*] Excepting your general superintendence at the Home Office, do you see much of the practice?—Not a very great deal. On the Midland Circuit I think I can say they are generally very respectable attorneys; they are most of them clerks to the magistrates.

2131. Mr. *Philipps.*] With regard to magistrates' clerks having the conduct of prosecutions, do you think there would be a very strong objection to their having the whole of the conduct of them?—No. Upon the whole, I thought that the objection mentioned by the Chairman, as to their inducing the magistrates to commit in improper cases, was rather overbalanced by the fact of their being under the surveillance of the magistrates, and under their control, and being responsible to them.

2132. Do you not think that there would be an advantage in entrusting the undivided responsibility of the conduct of the whole affair, from the beginning to the end, to the same person; he would advise upon the commitment, and would also be responsible for the conduct of that commitment to a successful issue?—I do not know that there would be much advantage in that, if you could get an equally responsible person; I think that where the prosecutor is a man of property and entrusts the prosecution to his own attorney, it is generally conducted as well; the great thing is to secure a respectable practitioner.

2133. Do you think that there would be an advantage in the magistrates throughout the kingdom appointing a person at their sessions to conduct the prosecutions, independently of their clerk; do you think that there would be an advantage in their appointing a regular attorney or person to conduct the prosecutions, whose name, of course, should be known at the Home Office?—I do not think that would be a bad system; I believe that it has been adopted in certain large

large boroughs; I rather think at Liverpool and Leeds, and some other large towns, the magistrates bind over the chief officer of police to prosecute, upon the understanding that he employ an attorney nominated and appointed by them, and he is generally a very respectable man; I believe that has answered very well.

2134. Mr. *W. Ewart.*] In what cases did you state that the solicitor to the Treasury is employed?—I did not understand the question to refer to what were strictly called Government prosecutions, such as political cases, and so on; those he prosecutes for the Attorney-general; there are also other cases, such, for instance, as the prosecutions which are to take place at the next assizes against the officers of the Birmingham prison for cruelty to the prisoners; those are prosecutions for the Attorney-general, and they are conducted by the solicitor to the Treasury out of the sums voted for Treasury prosecutions; those are not the cases of which I was speaking, namely, cases prosecuted in London upon the application of the police as police prosecutions, such as all the murders that take place in the metropolitan district, and bad cases of manslaughter; such cases as that of the Mannings, the case of Barthélemy the other day, and Buranelli; those are prosecuted by the solicitor to the Treasury; but the excess above what is allowed upon taxation is not paid out of the Treasury funds, but out of the metropolitan police funds.

2135. Mr. *Philipps.*] Should you think, from the facts which are within your own cognizance, that there is most need of any additional assistance with a view to investigate those prosecutions which are not taken up, or to conduct them when taken up?—I have considerable doubt as to the prosecutions which are not taken up; I think those are very rare indeed, because in almost all large towns I believe the police are invariably bound over to prosecute, and an attorney is invariably employed in the provincial towns. In London, as you have heard, an attorney is not generally employed; but I should think there are very few cases within the metropolitan district in which there has been a failure from the want of prosecution of some sort or another. I hardly ever heard of such a case; there may be such cases in the country, I cannot answer as to that.

2136. *Chairman.*] Your experience does not lie in the country?—No; I can speak to it much less, because it is so very rare that we interfere in a prosecution in the country.

2137. Mr. Wilkinson, who is town clerk of the borough of Walsall, told us as follows: "I can recollect a number of instances within a short period in which for the want of some party having had the conduct of the case, there has been an evident failure;" he also told us, "There is no doubt in the world that many prosecutions are not gone into on account of the poverty of the prosecutor; he will not undertake the labour, and trouble, and cost of the prosecution, because he has not the means;" and he stated that that applies to many prosecutions which it is for the interest of society should be investigated. I do not understand you to say that your experience enables you to contradict that?—No. I cannot contradict that as to Walsall; but I think I can contradict it as to most of the large towns, owing to the practice which I have stated of binding over the police; it is to avoid that, I dare say, that such a practice has been adopted. If you threw it upon a prosecutor who was a very poor man he would not be able to conduct the prosecution. I may also mention that there is a very large class of cases in which summary convictions take place for offences not strictly punishable in a summary way; for instance, it is extremely common in the metropolitan district, in order to avoid trouble and expense, to punish picking pockets under the Vagrant Act; and I believe it is so in the country.

2138. Is not that an evil?—I confess I have always thought it a very wrong practice.

2139. What you have said reminds me of the evidence given before the Committee for the investigation of the Criminal Law, eight or nine years ago. One of the police magistrates (I think Mr. Broughton) said that there was a very cruel case of a man who had broken into a widow's house, and seized all her furniture under a false pretence; that he punished him summarily because the poor widow could not incur the expense of a prosecution; whereas, if it had been a rich person, he should have sent the man to take his trial at the assizes. Is not that an evil?—Certainly, as far as it goes. There are also sailors and persons whose business calls them away immediately, and who cannot be forced to prosecute without a very serious loss, and there being no provision for their expenses in the meantime, the magistrates very frequently convict summarily in cases of

H. Waddington, Esq.

28 June 1855.

felony, which is an improper practice, no doubt. I ought to mention that there are other cases which are prosecuted as Treasury cases, both at the assizes and in the Central Criminal Court; those are cases of murder and manslaughter upon the high seas; that is a practice which has prevailed for some years, and has been found necessary, from the very cause which I have mentioned, namely, the necessity of keeping the witnesses in the country and paying their expenses; otherwise, of course, these seafaring men could not be brought to give evidence at all; they would starve, or would abscond and set their recognizances at defiance. Therefore the Government takes up those cases and makes an allowance to the witnesses, and prosecutes both at the assizes and the Central Criminal Court.

2140. Supposing it to be established that attorneys are in the regular habit of paying fees to policemen, to induce the policemen to give them prosecutions, would you consider that a very great evil?—I should indeed.

2141. And one likely to interfere with the purity of the administration of justice?—It would be quite a scandal, no doubt, upon the administration of justice.

2142. It is in evidence before us that such a practice is by no means uncommon in the metropolitan districts, and exceedingly common in Stafford?—I should doubt the existence of it in the metropolitan districts to any extent; I should very much like to know the facts, in order that we may inquire into them.

2143. Mr. *Philipps.*] I presume, if you found such a case, you would immediately represent it to the commissioners of police?—We should have it inquired into, and the parties would be punished, beyond all doubt.

2144. The policeman would probably be dismissed, in such a case?—Decidedly.

2145. *Chairman.*] If you like to refer to the evidence of the chief of the constabulary force at Stafford, the evidence of Mr. Hobler, and also, I think, the evidence of Mr. Straight, you will see it stated that such a practice exists; particularly in the evidence of the head of the constabulary force at Stafford?—Captain Hatton. I know the gentleman very well; he is a very active officer. I should think that Mr. Hobler must have been referring to some years ago; I think I should have heard of it if there had been anything of that kind of late.

2146. However, if such a thing did exist, you would consider it a very gross evil, requiring interference?—Certainly.

Mr. *Samuel Robert Goodman*, called in; and Examined.

Mr. *S. R. Goodman.*

2147. *Chairman.*] WILL you be good enough to tell the Committee what you are?—I am Chief Clerk to the Lord Mayor at the Mansion House.

2148. How long have you held that situation?—Since the year 1843.

2149. During that time you have had, of course, considerable experience in criminal affairs?—My entire time has been devoted to it. Prior to that I was clerk of indictments, on one or two of the circuits, for some years.

2150. Does it appear to you that there are any evils in the existing system?—I would rather give you facts than opinions, if you will allow me.

2151. If you please?—I will just mention one or two circumstances which occurred when I was on the circuit.

2152. On which circuit?—On the Norfolk circuit. I am speaking now about expense. I hardly know whether I am right in speaking upon this subject. I recollect a small prosecution for stealing a petticoat (I cannot give dates, because I have not had an opportunity of ascertaining them), where the expense was about 50*l.* for stealing a petticoat of the value of a shilling.

2153. Mr. *Philipps.*] Where was it?—At Norwich, on the Norfolk Assizes.

2154. *Chairman.*] Can you account for that in anyway?—No, except by the distance which the witnesses had to travel.

2155. Is that within the last 10 years?—No. I have been at the Mansion House since the year 1843; therefore it may have been one or two years previously to that. Another case I will instance of stealing a duck; that was at Buckingham or Aylesbury, I am not quite sure which; it was in the county of Buckingham; there I think the magistrates' certificate alone was about 14*l.* or 16*l.* for stealing a duck of the value of 1*s.*

2156. How do you account for that?—There were a great number of witnesses bound over to appear, and upon laying the certificate before Lord Denman, who

was

was the presiding judge, he directed the clerk to pay his own fees, and to pay the witnesses for coming there as well.

2157. So that, in fact, the country had not to pay that?—No.

2158. But that was the claim?—That was the claim, and it was considered so trivial a prosecution, and with so many unnecessary witnesses, that the costs were not allowed.

2159. Did the clerk to the magistrates in that case conduct the prosecution?—He did.

2160. Mr. *Philipps.*] How long ago was that?—It must have been about the year 1840 or 1841. I merely refer to these instances to suggest the expediency of giving a magistrate summary jurisdiction in small affairs of that kind.

2161. *Chairman.*] Have you any other facts to state to the Committee?—I have known instances where the solicitors for the prosecution have brought their witnesses in a van, for instance, and have then received the amount of the costs of the prosecution, and paid the witnesses according to their own estimation.

2162. That is to say, the attorney received the money as if they had come separately, and paid the expenses of the carriage which brought them all together?—I have no doubt that that was the arrangement, because we had complaints in one or two instances. That was at Cambridge. My suggestion with respect to that would be, that every witness should receive his own expenses; that is to say, that the taxing officer should do as he does in London, namely, tax the amount of costs, and take a separate receipt from every individual witness. In the case of Greenacre, I taxed the costs when I was at the Central Criminal Court. I served my articles to Mr. Clark at the Central Criminal Court before I went to the Mansion-house. In that case, the solicitor for the prosecution who conducted it was, I think, about 180 *l.* out of pocket in getting up the evidence. I am speaking now only from memory.

2163. But certainly upwards of 100 *l.*?—Considerably so. At that time the costs of a prosecution were not allowed by the Poor-law Commissioners. He conducted it as the vestry clerk of Paddington, I think; he afterwards presented a petition for an addition to the usual allowance of costs, and some small amount was given to him.

2164. But still he was considerably out of pocket?—He was.

2165. That Greenacre case was a case as important, and requiring as much investigation as probably any case in your experience?—It was a most difficult case in getting up the evidence.

2166. There was no responsible person on the part of the public to do so?—Except the vestry clerk who undertook it; whether he eventually got paid by any other means I cannot tell. I merely speak from what I know in my official capacity. I would also refer you to a case which was prosecuted by Mr. Gray, a merchant in the City, at the Central Criminal Court, for conspiracy, which was rather an important case; he told me after the prosecution was over, that the costs of that prosecution had been to him between 500 *l.* and 600 *l.*

2167. Did he convict?—He convicted. He afterwards petitioned the Court of Common Council, setting forth the whole of the facts; and I believe that Court granted him a small sum on account of the enormous expense.

2168. That had nothing to do with the public?—No.

2169. As far as the public were concerned, he had to pay that money for getting up that case in which the persons were convicted?—Yes; the court not having power to award any costs in a case simply of conspiracy to defraud.

2170. What merchant is Mr. Gray?—He has recently died.

2171. What was his business; was he a merchant of respectability?—Yes. He told me afterwards that it was almost his ruin; that and the loss which he sustained. He was a rope-merchant.

2172. Then he would have been a considerable gainer if he had been content to let the thing pass without investigation?—No doubt of it.

2173. Have you any doubt that it often happens that an attorney is called upon to advance a considerable sum of money in investigating a prosecution?—I think it a very isolated case indeed.

2174. But it does happen?—Very few instances have ever come to my knowledge.

2175. Greenacre's case being one?—I mentioned that as a case in point.

2176. And Mr. Gray's another?—Yes. Greenacre's case, you must recollect,

Mr. S. R. Goodman.

28 June 1855.

was a case of murder, where the court had the power to grant the costs; and the other was a case of conspiracy, where the court had no such power.

2177. With regard to the want of any responsible person to manage the inquiry in criminal cases, any person to whom the public has a right to look; in your opinion, does that sometimes lead to the case finding its way into the hands of an inferior practitioner?—I think many persons are very anxious to keep the conduct of their own case in the hands of their own solicitor.

2178. Suppose a poor person, who knows nothing about solicitors?—Then if he made his application to a magistrate, poor or rich, it would make no difference.

2179. But supposing he did not make his application to a magistrate; supposing he was a poor man, utterly ignorant; is it your opinion that he might fall into the hands of some low attorney, who would be glad to make money by conducting the case?—I cannot call to mind any particular instances in which that has occurred.

2180. You do not agree then with the evidence which we have had from Mr. Straight, and also from other parts of the country, in which the witnesses say that it is not an uncommon thing for policemen to be in the pay of attorneys, to bring them prosecutions?—I have heard of such things being done, and I once investigated a charge of that sort, but could not trace it home to the parties; I gave them notice that if I ever found out anything of the sort, I should deem it my duty to make a special report upon the subject.

2181. In your opinion, does it happen that policemen are bound over to prosecute?—All parties are bound over to prosecute.

2182. But does it happen that policemen especially are bound over as the persons to manage the prosecutions?—No doubt.

2183. Do you consider policemen the proper people to be so entrusted?—I do, and I will tell you upon what ground; they are bound over in common cases of prosecution; but where it is a case of any importance a solicitor is almost invariably employed. In common cases a constable gets up his evidence; an inspector is always in court to report that which the constable does; he has the power of going to the inspector for any further information, or to his superintendent; or, if he felt any difficulty, he would come and ask me any questions as to what witnesses were necessary for the prosecution.

2184. You are speaking merely of what takes place at the Mansion House?—I am speaking now of the City.

2185. Mr. *Attorney-General.*] Do you think that a policeman is a fit person to have the conduct of a prosecution?—He does not conduct it, I apprehend, at all; the magistrate conducts it, in my judgment.

2186. I am speaking of the prosecution at the trial; of what stage are you speaking?—I am speaking of the time before trial; after the commitment the depositions are returned, the whole of the evidence is completed, and each witness is bound over.

2187. Are you aware that it frequently happens that policemen take cases into court, and act in that respect as attorneys to conduct the proceedings, and sometimes even hand the depositions to counsel?—Not in London, that I am aware of.

2188. Are you not aware that policemen do take cases into court?—No doubt of it.

2189. Have you ever known of a policeman taking a case into court, naming the attorney, and having the name of that attorney put at the back of the depositions?—I paid the expenses for a great many years at the Old Bailey, and I never knew such a case.

2190. But they do take cases into court where counsel are employed?—At the request of the prosecutor frequently the depositions would be handed over to a solicitor, and that solicitor would come and receive his fee for his brief.

2191. I am speaking of cases where the policemen collect the witnesses and the evidence, and bring the case before the grand jury and take it into court. We certainly have been led to suppose by the other witnesses that that happens?—I cannot see what they have to do, because every one is bound over to prosecute, and every one is bound over to give evidence, and all that the constable has to do is to take his instructions and to marshal his witnesses, to see that they are at the indictment office door and come up to the clerk of indictments.

2192. *Chairman.*] Do you think the policemen proper parties to do that?—I think they are.

2193. Mr. Straight, at Question 508, says that the police are very frequently intrusted with the prosecution at the Old Bailey and on the Home Circuit, and at Question 492, he says that there are a great majority of prosecutions conducted and brought to the court by policemen. He was then asked whether that was a desirable state of things, and he said no?—It depends on what meaning you put upon the words "conducting the prosecution."

2194. Whatever the policemen do, do you think it desirable that that should continue?—I think they would do it if a solicitor were employed.

2195. Do you think it desirable that that should continue?—I see no objection to it.

2196. Mr. Straight was asked, "You do not consider them a proper body in whom such a trust should be deposited?" to which he said, "No."—"Do not you think that they are exposed in many cases to pecuniary temptation, taking a vast number of them? I never knew any fact which would justify me in coming to that conclusion; I think they take a per-centage off the allowance to witnesses." Do you believe that?—I do not, because I used to pay the witnesses.

2197. Then you do not consider that the police are exposed to pecuniary temptation with regard to the witnesses by taking a per-centage. Do you think that the police do take a per-centage off the payment to witnesses?—I never heard of it.

2198. Do you think that the police can be safely exposed to the temptation to which the power of doing that would expose them; have they the power of doing it?—I think the police, as a body, act in an exemplary manner.

2199. Do you think they are people to whom, if they had the power of taking a per-centage off the payments to witnesses, such a power might be left?—I do not think they would abuse that trust more than ordinary individuals or solicitors.

2200. You think they would not be more likely to do so than respectable solicitors?—I do not.

2201. You think that a policeman is to be trusted equally with a respectable solicitor?—I do not mean to say that they are persons of equal standing, but I mean to say that, as far as I have been able to judge, they are equally to be trusted.

2202. Mr. *W. Ewart.*] You place sufficient confidence in their knowledge to think that they are proper men to marshal the evidence?—Their duties are very simple; all they have to do is to lead the witnesses from one office to the other, from the indictment office to the court to be sworn, from the court to the grand jury room, from the grand jury room back again to the office, to ascertain whether there is a true bill, and then to the court.

2203. *Chairman.*] If they are entrusted with anything more than that, are they fit for it; if they are entrusted with anything not simply ministerial, and such as you have described, which is exceedingly simple, are the police fit for it?—I think not beyond that; I would not entrust them with getting up the evidence.

2204. Mr. *Attorney-General.*] Do you not know that practically they busy themselves exceedingly about it, and show great zeal?—No doubt there will be a great deal of that in some instances; no doubt they will get up more evidence than the magistrate thinks fit to send.

2205. Do you not know that they do?—Undoubtedly, frequently.

2206. And thereby it causes expense?—No, because the magistrate does not examine those witnesses; he takes sufficient evidence to justify the committal.

2207. Do you think that the evidence got by the police is generally useful evidence?—I do.

2208. Do you not find practically that a policeman, having as it were the conduct of the case, getting up the case, bringing the witnesses, and taking it into court, acquires more or less the character of a partisan; he comes with a zealous desire to convict if he can?—No doubt he does.

2209. Are not the policemen generally witnesses in the cases which they bring up?—No doubt.

2210. Do you think it desirable that a man who has to give evidence, and sometimes very important evidence, should, before he comes into the witness-box, have been mixed up with the conduct of the prosecution, and should have a strong desire to convict?—I do not think he can divest himself of human nature.

Mr. S. R. Goodman.

28 June 1855.

2211. Is not that a reason why he should not have the conduct of the prosecution?—He has no conduct of the prosecution.

2212. You say he brings the witnesses?—If you call that getting up the evidence.

2213. Call it by any name you please, it produces zeal in the case?—I think that a policeman will exercise as great an amount of zeal, whether there is a solicitor in the case or not.

2214. Do you not find that, practically, a man who mixes himself up in the conduct of the case, the getting up of the evidence, the marshalling of the evidence, and the bringing of the case into court, acquires a degree of zeal to ensure conviction which he otherwise would not?—I think it is probable it may be so.

2215. Do you not know that it is so, and that one sees it every day?—You must excuse me if I do not thoroughly comprehend you. I am anxious to give you a right answer if I possibly can. I want to know whether you make a distinction between a solicitor being employed, and not.

2216. I do not ask you as to a solicitor being employed; I ask you whether the fact of a policeman mixing himself up in getting up the case, does not produce in his mind a desire to convict the party?—I think it does.

2217. Do you not think it wrong that a man should be a witness in a case of which he has the getting up; that it is a bad thing that a man should come and give his evidence with such a strong desire?—I think it better that somebody else should take the whole of it, and that the policeman should not.

2218. I therefore asked you the question, whether you thought that the policeman was the right man to get the case up?—I did not understand the manner in which you meant getting up the case.

2219. *Chairman.*] In your belief, are there attorneys who attend police offices for the sake of getting up prosecutions?—I have known instances where attorneys have attended for the purpose, in the hope rather of undertaking the prosecution after committal.

2220. Do you believe that to be uncommon now. For instance, Mr. Hemp, a gentleman of some experience, the assistant clerk of arraigns at the Central Criminal Court, told us, "I believe that in large towns there are a number of attorneys who attend at the police offices for the very purpose of getting up prosecutions. I was told of an instance even in London only the other day;" and then he says again: "There are a great number of attorneys who, I believe, attend the police offices, and get up prosecutions." Do you believe that to be true, or to be a mistake?—I believe it is true.

2221. Do you believe that the class of practitioners who attend are a respectable class?—Some are, and some are not; but the respectable class would not attend for that purpose.

2222. Do you think that the class of attorneys who attend at the police offices for the sake of getting up prosecutions, are a respectable class?—Certainly not those who attend for that sake alone; but I often find that when gentlemen come to ask advice upon various questions prior to prosecutions taking place, the solicitors themselves will say, "Well, I shall hand this case to this gentleman or that gentleman to conduct it; I do not profess to understand criminal law."

2223. It would be a respectable class, respecting whom the solicitor would say that?—No doubt.

2224. And therefore that would not apply to those who were not respectable, about whom I was asking?—Certainly not.

2225. Mr. *W. Ewart.*] Your experience is entirely confined to the City, is it not?—At the present time it is.

2226. Are you not entirely limited to cases in the City?—I have been the circuit as clerk of indictments, but my experience as clerk to the magistrates is entirely confined to the City.

2227. How long have you been so engaged?—Since the year 1843.

2228. Mr. *Solicitor-General for Ireland.*] Is there any practical impediment to paying to each witness his own expenses?—None; the practice at the Central Criminal Court is, to put on the order for costs the name of every witness, with the amount to which he is entitled; and each witness has to sign that, and he sees then what he has to receive.

2229. To whom does the attorney go for payment of those expenses?—The officer is in attendance at the Central Criminal Court.

2230. What

2230. What is the establishment?—It is treasurer of the county, or the treasurer of the city. Mr. *S. R. Goodman.* 28 June 1855.

2231. Would there be any impediment to having a form, stating the name of the witness, and making it payable to the witness?—It is done so there; but on the circuit in many cases it is payable to the solicitor in a lump.

2232. *Chairman.*] The consequence is, that very often the money does not all find its way into the pockets of the witnesses, is it not?—Complaints have been made of that sort. Upon the subject of witnesses for the defence, I may state that our practice is this: if a prisoner says that he has witnesses to call, the witnesses are invariably examined; and if they do not sufficiently shake the evidence for the prosecution, the evidence is returned with the depositions; but the witnesses for the defence are not bound over, and therefore they get no expenses; the witnesses for the prosecution are bound over, and therefore they do get expenses.

2233. What is the course, supposing they do shake the evidence?—Then the magistrate would discharge the prisoner.

2234. Suppose it was a doubtful case?—If it was a doubtful case the magistrates would not put him upon his trial, if the evidence for the defence was sufficient.

2235. Supposing the magistrate said, "It depends upon which of the two speaks truth: I cannot decide which of the two speaks truth:" what would he do?—Then he would in all probability send the case for trial.

2236. Would he bind over the prisoner's witnesses?—No.

2237. He would in no case bind over the prisoner's witnesses?—In no case.

2238. The only effect of the prisoner calling the witnesses in your court is what happens in all courts, that if the prisoner's witnesses upset the case for the prosecution, the case is dismissed?—Yes.

Mr. *Henry Avory*, called in; and Examined.

2239. *Chairman.*] WILL you state what you are?—I am Clerk of Indictments on the Home Circuit. Mr. *H. Avory.*

2240. How long have you been so?—About eight years. I have been connected with criminal business at the Central Criminal Court the last 14 years. I have also been once on the Western Circuit as clerk of indictments.

2241. Will you tell us what are the exact duties of the clerk of the indictments?—The duties which I perform I can tell you, and I conceive them to be the right ones. I have made it my practice to peruse every set of depositions returned to the assizes, and also to the Central Criminal Court, where I perform similar duties; from those depositions I draw the indictments, unless I receive notice that counsel is doing so. Upon the witnesses coming to the assizes, they come to me at the indictment office. If the depositions do not disclose sufficient facts upon which to found an indictment, I make further inquiries of them, and having satisfied myself, and drawn the indictment, my duty then is to pass it, and to send it to the grand jury.

2242. Then if counsel are not employed, you draw the indictment and see the witnesses yourself?—Yes.

2243. Have you anything to do with taxing costs?—I do perform those duties on the Home Circuit also; we have no separate officer, and I tax all the costs in criminal cases, except at the Spring Assizes, when we have a very heavy calendar, then we have another officer.

2244. You have experience in taxing costs?—Yes.

2245. Does it appear to you that the present system of administering criminal justice requires change in any respect?—I think that very important changes might be made, but that power already exists for making a great many of them.

2246. What are the evils which strike you as existing at present?—One of the evils is the absence of some responsible person to conduct the prosecution from the time of committal to trial, and my own impression is, that the magistrate's clerk is the person of all others to do that.

2247. In your opinion that is an evil?—I think it is a great evil.

2248. Does that, in your opinion, often lead to a failure in the administration of criminal justice?—I think not often, but that it does sometimes; very few instances have come within my own knowledge. In fact, I have endeavoured in

Mr. *H. Avory.*

28 June 1855.

vain since yesterday to bring to mind any one specific case; but I have an indistinct recollection of one or two cases in which a failure of justice has taken place from the want of some responsible person to conduct the prosecution, and to get the further evidence which was necessary.

2249. Have you paid any attention to the general working of the system on other circuits?—I have very little knowledge indeed of other circuits. I quite admit that a failure of justice may arise, and I have no doubt it has frequently arisen.

2250. In your opinion, does the present system lead sometimes to bringing prosecutions into the hands of a lower class of practitioners?—Yes, I think that is so. I can mention, that in the county of Kent especially, I have known prosecutors come to the indictment office to me with their witnesses, perhaps on the evening of the Commission day, when I have been drawing the indictments, without any attorney at all. The next morning, to my surprise, I have found that the prosecution has been in the hands of some attorney of whom I did not entertain perhaps a very high opinion, and I can only guess at the mode in which that has taken place.

2251. Mr. *Attorney-General.*] What is your inference upon the subject?—My inference is, that there is a certain class of practitioners who make it their practice to attend at the assizes and to go round amongst the prosecutors and witnesses, soliciting to be allowed to conduct their prosecutions upon something like the following bargain: "I will undertake this prosecution for you, and you shall have counsel to conduct it; you shall be at no expense; I will be content to take whatever the county allows for counsel's fee and for the brief." Then I have no doubt that a great many prosecutors, perhaps being ambitious of having their case presented by counsel, fall in with that, and so it takes place.

2252. Practically, what is the result of that?—I think the expense is utterly thrown away, so far as the brief goes, because in a majority of instances it is nothing but a copy of the depositions, and that copy of the depositions might just as well be handed down to the counsel by the court, who would conduct it just as efficiently, inasmuch as he gets no other instructions from the attorney.

2253. *Chairman.*] Then you consider that the allowance to the attorney for getting up the brief is altogether flung away?—Quite so.

2254. Mr. *Attorney-General.*] Do you think that in those cases it is desirable that there should be counsel?—My own notion of the matter is, that every case should be conducted by counsel.

2255. You say you think it would be sufficient if the depositions were handed down by the court to the counsel?—Yes.

2256. Do not you think it is desirable that the presiding judge should have a copy of the depositions before him?—Undoubtedly. When I spoke of the depositions being handed down, I should rather have qualified that by saying a copy of them.

2257. Who is to make the copy?—There is no difficulty about that; it is a practice which we pursue at the Central Criminal Court every day. On passing the indictment at the indictment office, I inquire of the witnesses whether there is any attorney to conduct the prosecution; if they tell me no, and it is a case which, in the opinion of Mr. Clark, should be conducted by counsel, we immediately have the depositions copied, and the next morning, when the cases are in the list, the counsel mark their names against the cases in which they are concerned; and if there is any case in which no counsel is employed, a copy of the depositions is immediately handed to some gentleman to conduct the prosecution.

2258. That copy costs something?—Yes; of course we never send the depositions to strangers; we never part with the custody of them, and the practice has obtained of copying them after the usual office hours; so that the only expense to the public is some 2*d.* a folio.

2259. So that there is a considerable difference between the expense to the public of copying depositions in that way, and what it would be by having an attorney?—Undoubtedly.

2260. I believe that is a practice confined to you?—I think it is, so far as the copying of the depositions is concerned; but the practice of handing the depositions to counsel, as you are aware, prevails on circuit; it is, however, open to the objection which you have mentioned, that the judge ought to keep the depositions.

2261. *Chairman.*] Referring to the point of the low class of practitioners, in your

your opinion is it a great evil that the business should fall into the hands of a low class of practitioners?—I think it is a great evil, because when it has fallen into the hands of a low practitioner he is exposed to temptation from the opposite side, and the prosecution is far more likely to be put an end to than if it were in the hands of the prosecutor or of a respectable attorney.

2262. With regard to the money allowed to witnesses, has it ever occurred to you to doubt whether the witnesses have received the full money allowed them?—I have doubted it on many occasions, but I cannot say I have had very substantial grounds for doubt; I have formed an impression merely from rumour.

2263. Do you know that a class of attorneys are in the habit of attending police courts for the sake of getting prosecutions?—I do not know it of my own knowledge; I have heard it.

2264. Do you believe it?—Yes; and I believe also that a class of persons who are not attorneys do the same thing; that is much more frequently the case.

2265. Do you believe that it leads to improper conduct on the part of the police also?—I have never met with any instance in which I have found any reason to doubt the propriety of the conduct of the police in that respect.

2266. Suppose a policemen received fees from an attorney for bringing prosecutions; have you never met with such a case as that?—No.

2267. Not on the Home Circuit, nor at the Central Criminal Court?—No.

2268. Do not the police manage prosecutions a good deal at the Central Criminal Court?—I have never found any policemen do anything more than any other witness in the case. I have never heard of a case of a brief having been delivered to counsel by a policeman.

2269. Do policemen ever examine the witnesses?—I think so, and I think properly so.

2270. In a case where a policeman is to give evidence himself?—Yes.

2271. Do you think it right that a person who has to give evidence as a witness should be interested in the prosecution as an attorney who takes up the case?—I do not see any more interest in a policeman than in the prosecutor himself, or the attorney, who may be a witness.

2272. With the prosecutor you cannot help it?—If you so far restricted the policeman as to say that from the time of committal he should never see the witnesses till the time of the trial, he would be just as eager for conviction.

2273. You do not think that the circumstance of his getting up the case makes him more eager for conviction. If it is the fact, as we often find it, that a policeman has taken care to arrange the case, and to see that the witnesses are perfect in their parts (I mean, of course, honestly), you do not think, remembering the class of men to which a policeman belongs, that that would give him a bias?—I think in every case he has a bias.

2274. Is it not desirable that that bias should be diminished as much as possible?—Undoubtedly, if it is possible to diminish it.

2275. Does it not tend rather to increase it, if, in addition to his duties as policeman, he examines the witnesses in the case?—As far as the matter has come within my own knowledge, I never heard of a case where a policeman has done more than this: perhaps, in the indictment office, it has been suggested to him that certain evidence is wanting; for instance, upon drawing the indictment, I have perhaps found an absence of proof of the ownership of the dwelling-house, or the ownership of the property, or the name of a corporation; I have then said to the officer, "There is no evidence of this; you must procure it." The officer then gets that evidence; and I do not know any other agent who could be more properly employed. But as to a policeman sitting down to examine the witnesses, or to compare the testimony of one with that of the other, to supply any deficiency, that never came within my knowledge, and I never heard of its being done.

2276. Then you do not think that this is accurate, which we were told by Mr. Straight, for instance; you do not think that it is true that a great majority of prosecutions are conducted by policemen?—I am afraid we are at issue as to the meaning of the term "conducting" prosecutions.

2277. It is something which Mr. Straight does not think desirable. He is asked, "Do you think that that is a desirable state of things?" To which he replied, "No. I think there should be some one who should have the charge of the prosecutions between commitment and presentment"?—I think it is extremely

Mr. *H. Avory.*

18 June 1855.

desirable that there should be in every case a responsible person to have charge of the prosecution.

2278. You do not think that that, whatever it is, should be conducted by a policeman?—Certainly not.

2279. Without entering into the question whether policemen are entrusted with it, if it is so, you think it wrong?—I do.

2280. Mr. *Miles.*] But you do not think it is so?—The term, "conducting a prosecution," bears a different meaning with me from that which is attached to it by other persons, apparently.

2281. Will you state what your meaning is?—I understand by the term "conducting a prosecution," that which is done by a man, whether an attorney or not, whose duty it is to present the prosecution before the court in the most perfect form; such business as an attorney would perform. He would examine the witnesses at his office, and if he found the evidence of one witness conflicting with that of another, he would endeavour, by amplifying the evidence, to explain that away, or to see how it arose; and if he found that he could obtain any additional witnesses, he would procure them, take down their evidence, and furnish it to the counsel; but I never heard of a policeman doing any such thing.

2282. *Chairman.*] Without doing precisely what you have said, do policemen perform any other function which an attorney would do?—Yes, I think they do, because one of the functions of an attorney would be to look up extra witnesses, if necessary; and I think policemen do that, and very frequently get additional evidence, which no one else could do.

2283. Mr. *Miles.*] Therefore that is conducive to the ends of public justice?—I think so.

2284. *Chairman.*] You think it desirable that it should be a policeman, and not an attorney?—I do not say that. I think it is more desirable that there should be a responsible and educated person in every case to have charge of the prosecution, whose duty it should be, amongst others, to get those additional witnesses; but I think there is little evil in the present practice.

2285. To do that which you say is done by policemen in some cases now?—Yes; and I think there is no objection of any importance to policemen doing i at present.

2286. But you still think it would be better if some one was appointed to do it?—Yes; some one in a superior capacity to a policeman.

2287. Mr. *Miles.*] But even conducted as it is, from your experience, the cause of public justice is not detrimented?—I think not by any conduct of the police.

2288. Mr. *Solicitor-General for Ireland.*] That is to say, you mean that you are better with the police now than you would be without them?—Yes. I think it might even arise afterwards, that when we had a superior officer we should find ourselves a little worse off in some cases.

2289. Would you consider it as conducting a case by a policeman if he got up the evidence out of court, and afterwards attended in court with the witnesses, and examined them at the trial?—I should consider it most indecent for a policeman to be in court examining witnesses before the jury.

2290. Have you never seen that take place?—Never.

2291. You have spoken of the policeman usually being to some extent a partisan?—Yes, I think he is in every case.

2292. Do you not think that if he is employed in communicating with the witnesses out of court getting up the evidence, he thereby has opportunities of shaping his own evidence to agree with the evidence of the other witnesses?—Undoubtedly he has the opportunity, but he would equally have the opportunity if an attorney were employed.

2293. Is it desirable that a policeman who is to be a witness upon the trial, should himself be a party in communicating with the witnesses, having that bias upon his mind, and thus being enabled to warp his own testimony to agree with theirs?—I do not see any objection to it. The policeman's evidence has been already taken down before the magistrate, therefore if he alters it or endeavours to shape it differently in court, there is always a check upon him.

2294. *Chairman.*] A gentleman who came from Walsall told us as follows: I asked him, "Is it within your knowledge that policemen are often employed for the management of prosecutions?" He said, "Undoubtedly; ordinarily it

it falls to their lot to do it." I then asked him, "Do you think that they are a proper class to be so employed?" to which he answered, "Certainly not." Do you agree with that?—There again the question is as to what is meant by the management of prosecutions.

2295. He is not speaking of London, but of what he sees at Walsall?—If he means by the term "the management of prosecutions," merely having charge of the witnesses——

2296. He does not mean that?—Then the difficulty I am in is as to the definition of terms. I mean by the management of a prosecution, such management as an attorney would bestow upon it; but I find that in the majority of cases the police are not bound over to prosecute specially. The ordinary form of recognizance is, that the whole of the witnesses are bound over to prosecute, and to give evidence, and in a great number of cases the policeman never does anything more than the other witnesses.

2297. In the sense, whatever it is, which you annex to the management of a prosecution, do you think it proper that a policeman should be entrusted with it?—I think it would be preferable that some other and more intelligent person should. I have never discovered any improper conduct in a case on the part of the police; and although policemen have been indicted for perjury, I have never, to the best of my recollection, met with an instance of a policeman charged with subornation of perjury, the inference from which is obvious.

2298. Mr. *Miles.*] As far as their management of prosecutions has gone, I believe they have acted perfectly well?—Yes, as a general rule; of course there may be exceptions.

2299. *Chairman.*] Then why do you not think them a proper class to be entrusted with the management of the prosecutions?—Because I think the majority of them are persons of small intelligence and skill; some of them are educated men.

2300. You have your own meaning to the words "management of the prosecution." I do not ask you what that meaning is; but do you think the policemen the proper people to be employed in the management of a prosecution?—I hardly know how to answer that question. I think they are very proper persons indeed to be employed in getting up evidence. I think they are very improper persons to be employed in delivering any instructions to counsel or preparing any written statement for the court.

2301. Mr. *Attorney-General.*] Do you not think that it would be better that the policeman who has to get up the evidence should do it under the guidance and direction of some superior authority?—Yes, I think that would be most desirable that he should receive a limit, as it were, to his duties, and that he should be directed what to do, and to do nothing else.

2302. And also that the person directed as a policeman to investigate and inquire and search for evidence should not be the man who is to be examined as a witness, supposing that a policeman is to be examined as a witness?—I think that it would be preferable that some other person should be employed.

2303. Supposing there was some public prosecutor or agent, he might then employ some police officer in whose integrity and intelligence he had confidence to make those inquiries which might be essential to the elucidation of truth?—Yes.

2304. *Chairman.*] Supposing it was in the power of a policeman to select the attorney to be employed for the prosecution, would you not consider that a great evil?—Yes. I would rather see all power of that kind taken away from the police.

2305. Would it not almost necessarily lead to great abuses?—I think it might, and would.

2306. Mr. *W. Ewart.*] If I understand rightly, your idea of the duty of a policeman is, that it is simply to collect the facts, and appear almost in a mechanical character?—Yes.

2307. Therefore, with regard to the bearing of the facts and their legal tendency, you would consider it necessary to have a superior officer?—Yes.

2308. Mr. *Solicitor-General for Ireland.*] Did you not say that you found police officers act rather as partisans in the case?—I think every policeman must; his promotion is concerned in it, so far as my knowledge goes. I have no very accurate knowledge upon the subject, but the promotion of a policeman I have always understood depends in a great measure upon the number of cases in

Mr. *H. Avory.*

28 June 1855.

which he is engaged and the number of cases in which he is engaged successfully.

2309. Mr. *Attorney-General.*] Is that so?—I have always heard so, and that is the impression formed upon my mind.

2310. Mr. *Solicitor-General for Ireland.*] It is looked upon as a test of his efficiency?—Yes.

2311. And he is promoted for his efficiency?—Yes.

2312. On the other hand, if the prosecutions in which he is engaged terminate in the acquittal of the accused, that is rather regarded as a test of inefficiency?—I imagine so; of course I may be utterly wrong in my impression as to the inducement to promotion.

2313. That is what you alluded to when you said that the result of your experience was that you certainly considered a policeman to be a partisan in the prosecution?—Yes.

2314. In other words, that he was actuated by the desire to secure a conviction?—Yes; I do not mean to say dishonestly so.

2315. Still that that was the operating motive upon his mind; that he fancied that a crime had been committed, and wished to secure a conviction?—Yes.

2316. You have given an answer which appears to me rather inconsistent with that; you have stated that in your experience you think that the policemen have acted invariably well?—Yes.

2317. Do you conceive that a man acts invariably well, when the motive of his conduct is to secure a conviction?—It may be a perfectly praiseworthy and honest motive; I can easily believe that a policeman might wish to procure the conviction of a man whom he believed to be guilty.

2318. I should rather imagine that the object of a person of your position and intelligence would be to elicit the truth?—If my impression was that a man had committed a crime, I should wish him to be punished.

2319. If you yourself, in the course of investigating the case, having even that impression upon your mind, hit upon a witness who could give evidence favourable to the accused, I am sure that a person of your intelligence would consider it your duty that he should be called, and examined upon the prosecution?—Certainly.

2320. From your observation, do you think that a policeman entrusted with the management of the case, and actuated by the motives which you describe, if he discovered that there was a witness not necessary for the prosecution, but who could give evidence favourable to the accused, would call that witness?—No, he would not.

2321. *Chairman.*] Do you consider that that would be praiseworthy?—I should consider that he would be guilty of a breach of his duty if he brought up witnesses who were not witnesses for the prosecution.

2322. But suppose that the witness might say something in favour of the prosecution, but still might say something in favour of the prisoner?—That is an instance of the want of some superior officer, to whom the policeman should refer, or by whom he should be guided.

2323. Mr. *Miles.*] In the preliminary investigations, which of necessity are often conducted by a policeman, is he not bound to state all that he knows upon oath, before a warrant is issued, or, if he has the prisoner in custody, what has taken place at the time that the charge has been made?—He is bound to state on oath all that he knows which is evidence, but anything that he had heard about another witness, of course, would not be evidence, and therefore he would not be bound to state that.

2324. Do you not think that it often takes place, for instance, in a serious assault upon the person, such as wounding and maiming, that the policeman inquires of everything which has occurred before he takes the accused into custody, and that that is taken down upon the police sheet by the inspector, and that then evidence is brought for or against?—No; my impression of the practice is, that nothing is entered upon the charge sheet, or at the station-house, except the bare charge; that no evidence at all is taken down at the police station; that the first time any evidence is taken down is at the police court; that is my impression of the matter; I may be wrong, but I never heard of such a practice of taking down evidence at the police station.

2325. Still I understand you, that as far as getting up the evidence goes, you conceive

conceive that no kind of injury to the administration of criminal law is done by the police getting up the evidence?—I think not.

2326. But that when you come to the management of the prosecution, if they do manage the prosecution they are persons who ought not to do that?—Yes.

2327. *Chairman.*] And you think that in getting up the evidence it would be better if the policeman was under the management of some superior person?—I think so. The reason I would retain the police to get up evidence is this; although I cannot now call to mind particular instances, yet many instances may arise where it is desirable to get hold of a witness who is himself of very bad character, and nobody else but a policeman would be able to get hold of him.

2328. Mr. *Solicitor-General for Ireland.*] They are quite necessary adjuncts for that purpose?—Yes.

2329. *Chairman.*] Captain Hatton, the chief of the constabulary at Stafford, has told us this: "I think in Staffordshire it is very objectionable, so many policemen being bound over as prosecutors; on more grounds than one. I do not think it right that policemen should be prosecutors if it can by any possibility be avoided, but the magistrates out of two evils choose the least;" and then he proceeds to state that the other evil was, that if the policemen were not bound over, people would not undertake the prosecution?—My experience has led me to this conclusion, that on the Home Circuit, whenever the owner of the property is a witness himself, he is always bound over to prosecute, and that it is only in cases where the person injured is a married woman or an infant that the policemen are bound over to prosecute at all.

2330. And you think it desirable that they should not be bound over in other cases?—Yes.

2331. Mr. *Miles.*] But they never are?—They never are on the Home Circuit, except in the cases which I have mentioned.

2332. *Chairman.*] And you think it desirable that they should be confined to those cases?—I think so. I think there is no necessity for binding over the police in any other cases.

2333. In Question 1319, Captain Hatton is asked, "Have you had an opportunity of observing with regard to attorneys, whether there is any indecent scramble between attorneys for the management of prosecutions?" The answer is, "Yes, I have been obliged to interfere to prevent that." From your experience, do you think such a state of things probable generally in a large town?—I think it is probable that there may be a scramble.

2334. Between low attorneys for the management of prosecutions?—Yes; in fact, I think it is so between low attorneys in the circuit towns. I may, perhaps, mention an instance with which I have met frequently when the prosecutor has employed his own attorney to conduct his own prosecution, and then there has come to the assizes, not only the prosecutor's attorney with his brief prepared, but also the magistrates' clerk, with a brief prepared for the same purpose, to conduct the same prosecution; that is to say, the magistrates' clerk offering to conduct the prosecution by virtue of his office as magistrates' clerk, and then the private solicitor of the prosecutor retained by the prosecutor himself.

2335. Mr. *Miles.*] In that case, to which of the two are costs allowed?—To the attorney employed by the private prosecutor.

2336. Mr. *W. Ewart.*] Notwithstanding your confidence in the police, you still think it necessary that, in certain cases, there should be a superior officer to control the collection of the evidence?—I think so.

2337. Why do you think so?—Because I think a person of superior intelligence, a man acquainted with the rules of evidence, and acquainted with the law generally, would be a far better person than a policeman, who is perhaps running about at random, picking up evidence which he thinks material, but which may turn out to be utterly useless.

2338. You think that, in some cases, the policeman is not a sufficient conductor of the case?—I think that is quite so.

2339. *Chairman.*] Have you turned your attention at all to the propriety of allowing witnesses to be called by the prisoner at the public expense?—I have not devoted any great consideration to it.

2340. What is your impression as to that?—My impression of the matter is this, that if the prisoner were called upon to declare before the magistrate at the time of his committal whether there were any witnesses whom he considered essential to be called for his defence; then, upon his declaring that there were,

Mr. *H. Avory.*

28 June 1855.

and naming them, giving their addresses, or describing them, so that they could be found, they should be summoned before the magistrate and examined; and if they were found to give evidence which might turn out to be material in the opinion of the magistrate, they should be bound over, and the question of their costs should await the decision of the court at which they were examined.

2341. That if the judge thought they were material and honest witnesses, he should have the power of allowing their expenses?—I think so.

2342. Do you think that that would be a sufficient guarantee to the public?—I think so, if it were made a condition precedent that the magistrate should examine them.

2343. Supposing a case where the magistrate, from mistake, refused to bind over witnesses who really were material in the opinion of the judge, would you in that case allow the judge to certify that the witnesses were material, and that their expenses should be paid?—Yes, I think so; I think an unlimited power of allowing the expenses of prisoners' witnesses would require to be most scrupulously exercised, otherwise it might have an evil tendency.

2344. But you think that with that check it might be safely done?—I think so; I think it is a great hardship upon prisoners in many instances, although perhaps the Committee is not aware that any one accused at the Central Criminal Court may get a subpœna for 1*s.*, which compels the attendance of any person upon whom it is served. He can summon four witnesses at the expense of 1*s.*; and then, whether he be poor or whether he be rich, if he can afford to pay 1*s.* for a subpœna, his friends can serve that subpœna upon anybody whom he chooses to point out, and the person is liable to be indicted if he does not come in obedience to it, without the payment of a farthing. In criminal cases no tender of expenses is necessary.

2345. Still we know that it often does happen that witnesses go away after waiting two or three days at the assizes?—Yes, I have frequently met with instances when I have been sitting in the office on the circuit taxing costs, where witnesses have come and said that they had not a sixpence or a penny to get anything to eat, and that they must go; in several cases even of witnesses for the prosecution, I have taken upon myself the risk of advancing them money; and in one instance I met with a reward, the witness's expenses were disallowed and I lost in consequence.

2346. Mr. *Philipps.*] I think you expressed an opinion that the conduct of the prosecutions might be safely entrusted to the magistrates' clerks?—I did.

2347. You have heard some objections made to it?—The only objection that I have ever heard is one which I consider a scandal upon them to mention, that is, that the miserable temptation of a few shillings will induce the magistrates' clerk to commit an accused person for trial without sufficient grounds, from the mere hope of having to conduct the prosecution, and getting a guinea or thirty shillings allowed for his brief. I cannot think that such a temptation would be sufficient to induce the magistrate's clerk to send a man to trial upon insufficient grounds.

2348. Supposing such a temptation existed, do you not think that some countervailing influences might be adopted against it?—Undoubtedly. That objection presupposes that the magistrate's clerk is the magistrate; it presupposes that the magistrate's clerk commits, and not the magistrate. The magistrate's clerk advises the magistrate, but the magistrate must always exercise his power of committal or discharge.

2349. Mr. *Attorney-General.*] Do you not think that in the country, where the clerk is generally a professional man, and the magistrate is not, the clerk has a very great influence upon the magistrate?—No doubt he has, and possibly in many cases may almost be the magistrate.

2350. Supposing the magistrate's clerk is far above any liability to be swayed by any such motive, do you not think that, as regards both the accused and the public, the bystanders, it is highly desirable that a man who exercises great influence upon the decision of the magistrate as to committal or not, should be beyond the reach of suspicion at the trial?—Undoubtedly, I think it desirable that he should be beyond the reach of suspicion.

2351. And therefore he should not conduct the prosecution afterwards, if you can find anybody else?—I would remove all ground of suspicion, by removing the inducement suggested.

2352. By putting him upon a salary?—Yes; and then I think you would have

have to your hand a staff of officers accustomed to these duties, and who would discharge them properly. Of course, that would not apply to the Metropolis, where you could not employ the magistrates' clerks, who are entirely occupied with their duties.

2353. Then you must pay the magistrates' clerks extra salaries, if they are to conduct the case before the magistrate and also collect the evidence?—Certainly. I have known the case of a magistrate's clerk coming 30 or 40 miles, and remaining, perhaps, in the assize town three or four days, and having only a guinea or 30*s.*

2354. You would increase their salaries considerably?—Yes.

2355. Supposing you had an established officer, whose sole and simple duty it should be to attend to the prosecutions of a particular district, do you not think that he would do it more efficiently than the magistrate's clerk, who has various professional duties?—I think it would be desirable if you had an officer whose sole duty it should be; but I think it would involve an enormous expense.

2356. Do you think it would involve more expense than all these increased salaries?—I have not gone into any figures, but I should imagine that the expense of one would be only one-tenth of that of the other.

2357. That is a mere assumption?—Yes.

2358. Suppose you should be wrong?—Then I think the system which you mention far preferable.

2359. Mr. *Miles.*] Still, considering the station of the magistrates' clerks in the country, and their standing in their profession, as I understand, you think that they would very properly fill the office of public prosecutors?—I think so.

2360. Does not it strike you as to the difference of expense between a public prosecutor, as a distinct person, and the magistrate's clerk; that the magistrate's clerk, whom you already pay by fees a given sum, of course could conduct the cases at much less expense than a person who had to give his whole time to it?—That is my impression. I have not gone into any figures; but it seems to me that if you abolish all the magistrate's clerk's fees, and pay him by a salary for the duties which he at present performs, and then for the additional duties which you call upon him to perform as a public prosecutor, the expense will be considerably less than if you have a separate and independent establishment of public prosecutors; because you must have a man of some position; you must have a man of knowledge and of legal education; and it seems to me that you would require one in every petty sessional division, otherwise the attendance of the public prosecutor might be required at two totally distinct places at the same hour of the same day, and if he could not be there, you would be put to the expense of taking the witnesses back and bringing them again.

2361. *Chairman.*] You have not considered the details?—No, I had hardly considered the subject till the receipt of your summons yesterday.

2362. Mr. *Miles.*] Still you have been some time on circuit?—Yes, about 10 years altogether.

2363. And have a tolerable knowledge in the country of the magistrates' clerks?—I meet them every circuit.

2364. You are able to state decidedly that they would be very proper persons, if paid by salaries instead of fees, to conduct the prosecutions?—It is my conviction that they would be the best persons, unless you had a totally separate and expensive establishment.

2365. *Chairman.*] Are you quite sure that it would be an expensive establishment; have you taken that into consideration?—The very short time that I have bestowed upon the matter, convinces me that it must be very expensive.

2366. If you bestowed a longer time in taking it into consideration, do you think it might change your opinion?—I endeavoured, in vain, to think of any system by which it could be rendered less expensive.

2367. You do not think then that there are a great number of frivolous prosecutions brought now?—There are a great number of frivolous prosecutions, but I do not know how the magistrate's clerk can help it; if the prosecutor makes a frivolous charge before the magistrate of stealing a turnip, the magistrate's clerk has no power of stopping the prosecution, or of ordering an acquittal.

2368. If there were fewer prosecutions, do you think it would save expense?—Considerably.

Mr. *H. Avory.*

28 June 1855.

2369. Are you aware that on the ground of expense alone a report has been presented to the Treasury, recommending the appointment of a public prosecutor, by Mr. Preston and Mr. Wilkins, of the North Wales Circuit?—I am not. If I were made acquainted with the functions of the public prosecutors, as proposed, of course it might modify my views.

2370. You have only considered the subject since yesterday?—Yes, with a view to giving evidence; I have merely thought cursorily upon the subject.

2371. Mr. *Philipps.*] To pursue the subject of entrusting the magistrate's clerk with the conduct of the prosecution, combined with remunerating him by a fixed salary, do you think there would be any inducement the other way; that is to say, not to prosecute cases, inasmuch as he would be paid the same whether he conducted them or not; do you think there would be any danger on that score?—I am very unwilling to assume that any such influences would operate upon the magistrate's clerk, but of course human nature is liable to such temptation.

2372. *Chairman.*] Even the magistrates' clerks?—Even magistrates' clerks, as other persons. If I were paid by a fixed salary for certain duties, I should desire to diminish those duties as much as possible.

2373. Mr. *Philipps.*] Therefore, if the magistrates' clerk were paid by fixed salary, there would be no risk of his recommending the prosecution of persons where it was not likely to end in conviction?—No. Of course there would be a certain class of cases where a considerable amount of local interest was excited, or in which the magistrates' clerk might be a partisan; you must then have some other officer. With respect to the payment by salary, the tendency which has been mentioned would equally apply to a public prosecutor as to the magistrates' clerk; he would desire to do as little duty as possible. There is one case which came within my own knowledge, which I intended to mention to the Committee. I do not know that it bears upon this particular branch of the subject; it is a case which occurred at the Central Criminal Court, and which was committed from one of the outlying districts of Middlesex; a charge of perjury. The depositions were taken before the magistrate, and they were forwarded to the Central Criminal Court. I had to draw the indictments myself; there were three indictments; three defendants were committed, and it appeared clearly upon the face of those depositions that though the defendants had sworn to several matters alleged to be false, only one was material to the issue before the magistrate, and that, therefore, was the only one upon which he could be convicted of perjury. As to that, there was but one witness, yet the case was committed for trial; no conviction could take place, and the whole of the witnesses were brought up, and the expense incurred of their attendance at the Central Criminal Court probably for three days; and the result was that which every one could have anticipated before.

2374. *Chairman.*] Were the expenses allowed?—Yes, the expenses were allowed, because the witnesses were bound over by the magistrate.

2375. Do you know what that cost the country?—About 30*l.*

2376. To what do you attribute that?—An inadvertence upon the part of the magistrates' clerk, or possibly the hope that some other witness might turn up before the trial.

2377. Mr. *Philipps.*] Do you think in the long run, that magistrates' clerks would be content with a fixed salary consistently with the meritorious performance of their duties; do you not think it possible that if they found they were conducting very heavy and arduous cases which involved a great deal of trouble, and they did not receive more than persons holding corresponding situations, and having much less labour, they would become discontented, and neglect the proper performance of their duties?—I think that would be a reason for increasing the salary; if it was found that a man had considerably heavier business than others, his salary should be proportionately larger than that of the man with the lighter business.

2378. Mr. *Miles.*] And if, as is the general case, the appointment of the magistrates' clerk were made by the magistrates, the magistrates themselves would act as supervisors?—I think it very expedient to have some central authority in the Metropolis to whom they could all refer in cases of difficulty. My impression is that such a minister or officer of justice does exist now in the person of the Attorney-general. In that case which I have mentioned, of course the Attorney-general might have entered his *nolle prosequi*; there would then have been no necessity

necessity for the witnesses to attend at the Central Criminal Court, because there was manifestly no hope of obtaining a conviction. If there had been a public prosecutor, whether the magistrates' clerk or any other person, he could have communicated with the central authority in London, and said, "Here is a case which I am called upon to conduct, in which there is not a hope of a conviction, why should I incur all the expense of taking my witnesses to the assize town or the court, and there meet with the result which I have already anticipated, when I could save all that expense?" I conceive it desirable to have some central authority in the Metropolis to which all the district authorities could refer in cases of great difficulty or labour.

2379. Whether it is the Attorney-general or the Home Office?—Yes

2380. Mr. *Attorney-General.*] At the present moment the Attorney-general is the only person who can stop a prosecution by entering a *nolle prosequi*, when it is once in motion, and there is no one whose duty it is to call the attention of the Attorney-general to any prosecution which requires that?—That is so.

2381. Mr. *Miles.*] Do you think it would be sufficient if you were to establish generally through the country the magistrates' clerks as public prosecutors, and giving them in all cases of difficulty a reference direct to the Attorney-general?—I think that would answer all the purposes. Of course, under such a state of things as that there must be some staff attached to the Attorney-general's department to enable him to meet the demand which there would be upon him.

2382. From your knowledge of the law, do you think that that would be perfectly efficient?—I think so.

2383. Mr. *Philipps.*] Do you not think that the knowledge which these clerks would have, that their names were well known to some central authority in London, would have a great effect upon their general conduct?—I think so, and that it would be a very expedient thing that a power should be lodged in the court before whom the trials took place, of marking their sense of habitual neglect or carelessness in prosecutions, because such things as those of course might escape the attention of the magistrates; they perhaps never hear of a case after its committal, and then there may be great neglect on some occasions in getting up the prosecutions from committal to trial; I therefore think that the court before whom the trial takes place should have the power of suspending or dismissing any person habitually careless.

2384. The magistrates in quarter sessions?—Either the magistrates in quarter sessions, or the judge at the assizes; or a reference back probably from the judge at assizes to the magistrates in quarter sessions would answer all the purposes.

2385. Mr. *Miles.*] At present all that is done is, that the judge or the chairman of quarter sessions, when a case is very badly got up, merely reprehends the very slovenly state in which the depositions come before him?—Yes; he makes some general observations. You would require some controlling authority, and I think you have it already in the magistrates. As an illustration, probably, of the mode in which things are done, I may mention that there was a case committed from Dover to the last Kent assizes, in which a magistrate himself was bound over as a witness: that was a case of perjury also, and the depositions were sent somewhat in this form. First, there was the magistrate's evidence. "Upon the hearing of an information before me, the defendant swore as follows." It was then set out among other facts that he swore that he was in a public-house on a particular night. Then there was the evidence of two other witnesses, who proved that on that night he was in barracks, and those were the whole of the depositions. There was nothing to lead me as to what the information was about, but there were barely those facts. Then, on the morning after the commission day the magistrate comes with his witnesses, and desires to go before the grand jury. My answer is, "I have had no facts upon which to draw the indictment; you must supply me with them;" and he and his witnesses were detained till the next day, until I could get leisure in the evening to draw the indictment; then the moment it was ready it went before the grand jury, and the moment it got into court the man pleaded guilty, so that the witnesses were detained two days instead of one, merely from the carelessness of the clerk to the magistrates in that particular case.

2386. Mr. *Philipps.*] Was he the regular clerk to the magistrates?—That did not come within my knowledge; but I should, of course, have had my indictment

Mr. *H. Avory.*

28 June 1855.

ment prepared on the commission day, and it would have been ready the next morning, but from the want of materials I could not do it until the following night.

2387. *Chairman.*] The evils which you have mentioned have long been under your notice?—Yes.

2388. With regard to the remedy, I understand you to say that it is only yesterday that you turned your attention seriously to the subject?—Exactly so.

2389. Mr. *Miles.*] But still, you have now given a decided opinion upon it?—Yes. I thought over the subject last night, and I could not devise any other system which it appeared to me would act better, except one which would be very much more expensive, namely, the one which Mr. Attorney-general has suggested, of having a distinct establishment of public prosecutors.

2390. *Chairman.*] Are you quite sure that a wider and more extended view of the subject might not alter your opinion in that respect?—I will not say that it would not.

2391. Mr. *Attorney-General.*] I understand you to say that, supposing the expense to be out of the question, you have no doubt of the advantage of one plan over the other?—Yes; if expense was not considered, I think it would be far better to have a distinct establishment of persons who should only have that duty.

2392. Perhaps you agree in this, that there is no branch of the expenditure of the State in which expense should be so little considered as the administration of public justice?—I quite agree in that.

2393. Mr. *Philipps.*] Then the sum total of your opinion would be this, that though you think, setting aside all considerations of expense, it would be a great advantage to have a distinct body of men to conduct the prosecutions; still, to entrust the prosecutions to the magistrates' clerks would be a great improvement on the present system?—I think so.

Sir *Alexander James Edmund Cockburn*, Her Majesty's Attorney-General, a Member of the Committee, Examined.

Sir *A. Cockburn*, M. P.

2394. *Chairman.*] WILL you be good enough to tell the Committee what are your views as to the evils of the present system, and the manner in which they might be remedied?—Perhaps you will allow me to state, first, that I have had a good deal of experience with regard to the administration of the criminal law, quite independently of the office which I have the honour to hold. I practised a long while at quarter sessions, and was very extensively employed in the criminal court, on circuit, before I got into civil business. I got into civil business through the means of the criminal business. I was, after that, recorder of Southampton for some years, and have been since recorder of Bristol, so that I have seen a good deal of criminal business in one way and another; and I am satisfied that the present system, although upon the whole it works efficiently, is open to serious exception, and is capable of great improvement. I think it very often happens that cases are brought to trial which are only imperfectly got up, and that they break down from the want of some superintending and controlling power to get the evidence together, and to see that it is complete. Magistrates commit, thinking that there is sufficient evidence to satisfy the legal requirements of the case; and when the matter comes to be sifted in court, upon the cross-examination of counsel and the watchful superintendence of the judge, who is bound to see that not only is there moral proof, but also legal proof of guilt, it turns out that some link or other is wanting which greater experience and knowledge of the subject in the intermediate stage of preparation would have supplied; and then the case breaks down, and a guilty man is acquitted, which I look upon as a very serious evil. Every case in which a man is manifestly, to the observation of the bystanders, guilty, and nevertheless escapes, produces the notion that there is a chance of escape for the guilty, and that no doubt operates as an encouragement to crime. Again, I think that there are many cases brought into court which ought not to come there, in which the offence is either so trifling, or the proof so defective, that it is not desirable that the case should be brought to trial at all. The magistrate hesitates to discharge the accused, because he feels that he is taking a great responsibility upon himself in doing so; he at the same time feels that the case will be more thoroughly sifted, and that the man if

Sir *A. Cockburn*, M.P.

28 June 1855.

if he is innocent will be acquitted, and therefore he thinks that the safer course is to send him for trial: the result is again acquittal; and the more acquittals there are, I am satisfied the worse it is; independently of which, you are doing a very grievous injustice to a man who is unnecessarily sent to gaol and put upon his trial. Of course he is subject to the grievance of imprisonment, and to the harassment of a trial, and the degradation which attaches to a man being placed in the dock as a criminal. There is also the contamination of the gaol, whereby, in a great many cases, a man who goes in innocent comes out morally contaminated. I cannot help thinking, therefore, that it would be a most essential improvement in our administration of justice, if there were some superintending authority, which should see, before cases are brought to trial, that the proof is as complete as it can be made, and on the other hand, where cases are sent for trial, which ought not to be sent, might interpose and stop them. Again, I think there are many cases of collusion in which, instead of the prosecutions being gone on with, by arrangement between the parties, either they are not taken before the grand jury, or the witnesses absent themselves, or they do not give the evidence which they ought to do, and so guilty parties get off. I think such cases as those might be very materially diminished if you had a controlling power watching over them. People would not venture to act thus if they knew that there was an officer whose business it was to watch them, and in case of collusion to bring them to punishment. There is a large class of cases also in which criminal justice is resorted to for the mere purpose of enforcing civil rights. A man institutes a suit in Chancery to obtain redress against what he believes to be extortion or other injustice; he is defeated there, and then he then resorts to an indictment for perjury or conspiracy, or one of that class of indictments, and very often he is perfectly right: some gross extortion or other abuse has been shielded by the perjury of the party immediately concerned, or there has been a conspiracy. I have known instances of conspiracies where indictments have been preferred, and true bills have been found; the case has been brought into court, and at the last moment it has been compromised, because the person guilty of the offence, seeing punishment impending, has made terms with his adversary, and so escaped. In all these cases, supposing the prosecutions honest ones, and that offences have really been committed, it is desirable that the parties who have been guilty of conspiracy or perjury, or any offence of that nature, should not escape by merely making a pecuniary arrangement with the prosecutors. I think, therefore, it would be very desirable that there should be a public prosecutor, under whose sanction indictments and prosecutions should be conducted, and without whose sanction they should not be compromised. I know that, on different occasions (I can certainly call to mind two instances), Lord Campbell, from the Bench, with reference to such cases, has publicly addressed me sitting in court as Attorney-general, pointing out to me the necessity of having a public prosecutor to prevent scandals in the administration of justice. It was that which, in the first place, induced me to turn my attention to the subject, and when our Chairman first brought his Bill into Parliament, I at once stated that the Bill would immediately receive the consideration of Her Majesty's Government, and I stated that I was induced to take that course in consequence of what my Lord Campbell had said to me, which I communicated on that occasion to some of the members of the Government who were sitting upon the Treasury Bench.

2395. Mr. *Philipps.*] Do you think that the evil of these acquittals is an entirely unmixed one; do you not think it possible that if persons were not put upon their trial, except there were almost a dead certainty of a conviction, it would lead to a great number of people going about, without, as it were, any notice being taken of them, the public mind being satisfied. Do you think that more mischief is produced by a man being acquitted in court from the knowledge of its being from failure of proof, than if his case were not taken up at all in the first instance?—Then, I think it would be better in that point of view if the public prosecutor stood up in court and said, "I have no case to sustain against this man, and I assent to his acquittal." I think that would be better than putting him through the course of a trial, which looks as if those who are conducting the public justice of the country think there is a case against him, when in point of fact there is not.

2396. *Chairman.*] You have mentioned the opinion of the present Lord Chief

Sir *A. Cockburn*, M.P.

28 June 1855.

Justice, which I must say has been expressed to me in equally strong terms, as to the necessity of appointing a public prosecutor; did you ever happen to hear my Lord Denman express the same opinion?—I do not think I ever did; I have always understood that he entertained it very strongly, but I never heard him say so from the judgment seat. I will add another, to my mind, very serious evil which I have observed very often myself, sitting as recorder, and that is the manner in which policemen mix themselves up with these prosecutions. I must say that I think it is a great scandal (to use no milder term) to see a case brought into court by one of the inferior ministers of the law such as a policeman. I do not think it is consistent with the proper administration of public justice, in a great country like this, that you should have a subordinate officer, who is merely the keeper of the prisoner, clothing himself with the functions of a public prosecutor. I think it has, also, this further mischievous effect. I have observed often, and have had occasion to notice it in court, how policemen become over-zealous in the conduct of prosecutions. I can quite account for it now; what we have heard throws light upon it. I was not aware of the circumstance (I refer to what has been said by the gentleman who has been examined here to-day), that the promotion of policemen is made to depend upon the prosecutions which they successfully conduct. One knows perfectly well the class of men from whom policemen are selected. I quite concur in what has been said, that generally speaking their conduct is very excellent; but one does frequently meet with instances to the contrary, as everybody knows; and a temptation of that kind to such a man is a very strong one: if he is told that his promotion is to depend upon the number of cases which he can bring to a successful termination in the conviction of accused persons, that must produce a tendency to desire convictions. One knows how subject human nature is to be biassed by interested motives. If you tell a man in that grade of life that he is to become a police serjeant, or inspector, if he can succeed in convicting a certain number of persons, the tendency is to convert him into an over-zealous and over officious person. Then the mischief is, that a policeman being supposed to be a person removed from all undue influences, who has not that bias upon his mind which the private prosecutor has, both the court and the jury, to my certain knowledge, attach the greatest importance to his testimony. When you are dealing with the prosecutor, you know him to be a man who comes smarting under a sense of injury; he has been robbed, or he has been beaten, or his premises have been set on fire, or he has sustained some other injury, and he comes there smarting with this sense of wrong, and naturally desirous of bringing down the vengeance of the law upon the man who has injured him; you know him to be labouring under those feelings, and you make allowance for them; you do not blame him because he feels in that way; it is natural that he should do so; but dealing with him as a witness, you know that you have a party more or less interested, and you therefore exercise a watchful caution as to admitting the whole of his statements. When you get a policeman, you get a minister, though a very subordinate minister, of justice, and you look upon him as a person upon whom you may therefore rely; and I own that it was not till I became a criminal judge that I saw the necessity of exercising watchfulness over them, without imputing undue motives to them. I see that they take such an interest in the prosecution, by getting credit for the intelligence, and energy, and skill which they show while getting the witnesses together and bringing them to the court, and in bringing the prosecution to a successful issue, that I have become very sensibly alive to the necessity of watching their evidence carefully. Then there is another thing; the policeman is generally the first man who comes into contact with the prisoner, and I find that, in the generality of instances, the policeman puts questions to the prisoner. Even if he does not put questions to him, the prisoner is naturally inclined, in the excitement of the moment, to make statements to the policeman. Those statements are very often of the greatest importance, and lead constantly to convictions, when the rest of the evidence would be deficient for that purpose. It is of the last importance that you should have those statements, when they are made, reproduced with the most perfect fidelity and the most scrupulous accuracy. But if you have a policeman who is already over-zealous in the cause, the slightest difference in a word or two, a little more colour, a little more complexion, given to the prisoner's statement, makes the difference between the man's being convicted or not. Therefore I think it is of the last importance that policemen

men should be kept strictly to their functions as policemen, as persons to apprehend, and to have the custody of prisoners, and not as persons who are to mix themselves up in the conduct of a prosecution, whereby they acquire a bias infinitely stronger than that which, as was truly observed to-day, must, under any circumstances, naturally attach itself to their evidence. I quite agree that there are many cases in which the evidence brought before the magistrates is insufficient, in which it requires to be filled out, and that you want intelligent men, accustomed to these cases, to ferret out the evidence, and get the witnesses, and so complete the case; but I think that that should be done under the superintendence of some man of higher intelligence, and whose conduct is more immediately responsible to higher authority, who should see that men employed for such purposes do not exceed their duty; and I think that it ought to be done by policemen who are not mixed up with the particular case, who are not the persons who apprehended the prisoner, or who are to give evidence on the trial, but that they should be men employed merely for that particular purpose. As it stands now, I believe there is often injustice done, and a great deal of dissatisfaction produced. I see very often in courts of justice, upon the cross-examination of policemen, or the questions put by the presiding judge, that the answers given by policemen produce considerable dissatisfaction in the minds of the surrounding audience, and I think that is unsatisfactory. I think one should endeavour, as much as possible, to make the administration of justice find its immediate response of satisfaction in the minds of the persons who observe what is going on. Upon the whole, therefore, I certainly am very strongly of opinion, that prosecutions would be more satisfactorily conducted if we had some one to intervene between the apprehension of the prisoner and the bringing of the case into court.

Sir *A. Cockburn*, M.P.

28 June 1855.

2397. Mr. *Miles.*] The observations which you have made as to policemen are more applicable to towns corporate which have their jurisdictions throughout the country?—Certainly.

2398. *Chairman.*] Have you any doubt that your observations refer generally to the administration of justice?—I know very well from my experience at assizes in former times, that the policemen constantly bring up the witnesses; it is not convenient to the local attorney to come all the way to the assizes or the sessions; he has a single case, and says, "I cannot trouble myself with this, the policeman will take it up;" and very often the policeman brings it up without any attorney at all. The case is not one worth the while of the magistrates' clerk, who is generally the prosecutor in my experience, to take up; perhaps it is the only case from that division, and it is left to the policeman.

2399. Mr. *Miles.*] Does not it often occur on the Western Circuit that neither attorney nor counsel are employed?—That is very common, and then the policeman takes the case up.

2400. *Chairman.*] Does it occur to you as an evil, that there should not be some person to whom the poorest man might go and desire him to conduct his case, when an offence has been committed against him?—I think so.

2401. Is it one of those things which any citizen has a right to demand of society?—I think so. In very many cases, on the other hand, it may be said that a person injured knows perfectly well, practically speaking, that if he goes before a magistrate, and says he has a charge to make against a particular individual, the magistrate will grant a summons or a warrant, as the case may be; this, again, will be put into the hands of an officer, and then the party against whom the charge is intended to be preferred will be brought before the magistrate, and if the case is well-founded against him, he will be committed for trial, or required to find bail, as the case may be; and the prosecutor knows perfectly well that if he goes and presents a bill to the grand jury, that bill will be properly dealt with, and the man will be brought to trial. Where it appears to me that the shoe pinches is this, that in such a case there may be a very good case for a conviction, supposing you have all the evidence which is necessary; but this man has not the means for getting it together, nor sufficient information as to the precise nature of the evidence which will constitute legal proof of the offence; and therefore, though an offence has been really committed, and he has sustained an injury thereby, and the party offending ought to be brought to justice, he is brought to trial, but is not brought to justice; he is acquitted where he should be convicted.

2402. In the case, for instance, of a murder, and there being no relations or friends of the murdered party, there is no one to conduct the prosecution?—No;

Sir *A. Cockburn*, M. P.

28 June 1855.

No; but, at the same time, somebody or other would be bound over. If a man goes before the magistrate, and says that his wife or relative has been murdered, and that he desires to prosecute, the magistrate would take care to bind some one over to prosecute; but suppose a difficulty in getting the evidence, the prosecutor gets no assistance, except the warrant which the magistrate issues, and perhaps a policeman is put into motion, or in some cases the parish is bound over to prosecute. The parish has no immediate interest in the matter beyond just discharging sufficiently the duty imposed upon it, so as not to forfeit the recognizances which the magistrate has caused some one to enter into. But that is not the way, I think, in which public justice should be conducted; there should be some one to watch over the case, and see that it is brought to a proper termination one way or the other. Again, I have often felt that where an attorney is employed by a private prosecutor, for the purpose of bringing a case to trial, the attorney considers it too much as a matter of professional importance to himself. I have known instances on circuit, in which, as counsel for the prosecution, I have found it my duty to moderate the over-zealous and inordinate desire of the prosecuting attorney to get a conviction. He looks upon it, that if he succeeds, it will be the means of getting him further business. Nay, I am bound to add, that I think sometimes even counsel themselves are not altogether free from this kind of desire to get a conviction, because it gives them a professional triumph, after which they are likely to be employed in other cases; it places them in a position of superiority to their competitors and rivals. Now I think if you had a prosecutor permanently established, who should hold a high position, in which it would be his duty to see public justice administered, in which he would exercise a sort of combined function of advocate and of magistrate, all that he would feel himself bound to do, and beyond which he would feel that he was bound not to go, would be to see that if in his internal conviction there was a case of crime, the prosecution of that crime should be carried to a successful issue; but if he had the slightest doubt or hesitation about it, he would be bound to place before the court and jury all that could make in favour of the prisoner, as well as all that could make against him. Nobody knows better than the Chairman that in theory that is the principle upon which a prosecuting counsel is bound to act; but I must say, as the result of my experience, I do not think that it is always adhered to as strictly as it should be, and in particular on the part of prosecuting attorneys. I have seen over-zealousness on their part which I have more than once had occasion to reprehend and control. Therefore, though it is better that there should be an attorney to conduct the prosecution than that there should be none, I think it would be very much better to have a permanent and public officer to do it.

2402*. So as to make the elucidation of truth, instead of a professional triumph, the object?—Just so. Of course, whoever the higher authority was, whether the Attorney-general or some other person, the agent would be responsible to him for the proper performance of his duties; but he would not have a personal interest in managing the prosecution.

2403. There would not be a struggle between private interest and public duty?—Just so.

2404. Lord *Stanley*.] Would there not be equally a desire to succeed in a conviction, in order to avoid damaging his professional reputation; would not that desire exist equally in an officer conducting a prosecution on the part of the public, as it does now on the part of the counsel conducting the prosecution?—Hardly so, and for this reason, he would have achieved his position and would have no competition to apprehend. I should be rather disposed to be apprehensive (and it is a drawback, I own, to what I think would otherwise be the superior system of public prosecution) of his becomeing remiss; that having no one with whom to compete, having nothing further to achieve, having got his position, and therefore having no longer an interest in that respect, he would rather, on the contrary, have a tendency to be less vigilant.

2405. Your idea of such an officer is, that he would have achieved his position, and would have nothing higher to look to?—Yes; I assume that you appoint a district agent who would have a fixed salary, and who would have nothing to gain by the number of prosecutions, or his success in conducting them; I should be apprehensive that so long as he applied such an amount of diligence, and such an amount of skill as did not lay him open to any reprehension on the part of

of the superior authority, he might have a tendency to become remiss and negligent, rather than a tendency to show over-zeal.

2406. Do you think that you would be able to obtain the services of competent and able men to fill such offices as you describe, although those offices led to nothing higher?—I think so, if you gave them adequate salaries. That point comes rather under the second head, which is that of the remedy.

2407. *Chairman.*] With respect to costs, you mentioned that sometimes the parish takes up a prosecution; has it ever happened to you in your professional experience to know litigation, as to who should pay for the costs of the prosecution?—Not that I recollect.

2408. You have told us in great measure the evils which appear to you to arise from the present system from the want of a responsible person; have you turned your attention at all to the remedy by which those evils might be counteracted?—Yes; I may say in the beginning that my first impression was that the magistrates' clerks might be made useful agents for the purpose of prosecutions; but, in the first place, there is this difficulty, that unless you put them on salaries, I think it would never do. However incapable they may be of inducing a magistrate to commit a man for the mere purpose of getting the costs upon the prosecution, still there would always be a suspicion about it in the minds both of the accused and of the public, which I think would be very distressing to them and very undesirable, and I do not think that would do. Occasionally it might, almost unconsciously to the man himself, just make the turning point in a case of any importance, whether the clerk should say "commit," or "do not commit." At all events, they should be removed from such a suspicion, and they should be put on salaries. But then, I fear you could not put them on sufficient salaries. If you were to take the individual items of each clerk's duty with reference to prosecutions, and give him a salary only commensurate to that, you could not confine the clerk's business and duties simply to the functions of magistrate's clerk and public prosecutor. He would therefore always have other business to attend to, and we all know that, generally speaking, the professional business of a solicitor, who is a magistrate's clerk (for they are almost always attorneys in the country), forms by far the greater and more important portion of his business. I cannot, therefore, help thinking, that if you want to have efficient officers always available for the purposes of criminal justice, you should have persons whose exclusive duty it would be to attend to that alone. Unless you have men who are to devote their whole time to it, and who are responsible, in respect of it, to some higher authority, I do not think you will ever get the thing thoroughly and efficiently done. Therefore I should prefer, unless there is some very great disproportion in point of expense, which I do not believe, district agents to magistrates' clerks.

2409. You do not approve then of that part of my scheme which would make the magistrates' clerks the criminal agents for the trifling cases, in correspondence with the district agent, so that at each petty sessions in an ordinary trifling case the magistrate's clerk would get it up himself, and if there was a case of any difficulty he would communicate with the district agent?—What occurs to me is this: I think if you have only an ordinary common-place case, you do not want the intervention of the magistrate's clerk as prosecutor at all. There the aggrieved party comes before the magistrate, and having either caused the delinquent to be apprehended, states his case against him; or if the man is still to be apprehended, gets a warrant against him. He states his case; it is a very simple one; a case, we will say, of common larceny; he says that he saw the man stealing something from his wheat stack or something else, and that he knows the man. That is a case in which you do not want the intervention of a public prosecutor at all. Where you have a case of greater importance, and where you require the intervention of a public prosecutor, I think it would be much better that the district agent, if you had such a person, should be communicated with at once, and my notion of the thing is this, subject to further consideration, that, in every case, after the first examination before the magistrate, the depositions, so far as they had been taken, should be sent to the district agent. Supposing it is one of those commonplace cases where the magistrate would perhaps say, "We do not want the district agent at all; I shall commit this man;" then, after the magistrate had decided upon committing him, I think the depositions should be sent to the district agent. Supposing, on the other hand, the case presented any feature of difficulty, I think it should be then the duty of the

Sir *A. Cockburn*, M. P.

28 June 1855.

the magistrate or the magistrate's clerk to communicate with the district agent, and that the district agent should receive the depositions as far as they had been taken. He should then intervene in the case, and if necessary, should produce further evidence than that which had been already obtained either through the private prosecutor or under the immediate direction of the magistrate by a policeman. That having been done, I would have the public agent become the depository of the depositions in every case. In ordinary cases, which are simple and straight-forward, and where no further evidence is required, I would have him simply prepare those cases for trial, and take care that at the trial the necessary witnesses are forthcoming, and that the case is conducted to its final termination. Where he entertains any doubt, or finds any difficulty, it should be his duty to communicate with a higher class of public agents, namely, the counsel, whom I should propose to conduct the prosecutions for each of those districts. I think you never would be able to do the thing well unless you have for each district, or for each circuit if you like (diminish the number as much as you possibly can, to limit the expense), counsel with whom the agents could communicate; and if they feel any difficulty, if the case assumes a character of great importance, or there are any difficulties with regard to the evidence or any other matter, such as questions of law, it should be the duty of these counsel to communicate with the Attorney-general *en dernier ressort*. Then there is another thing: if the counsel should be of opinion that there is no case upon which it is desirable to put the man upon his trial, it should not be competent for any step of that kind to be taken without the concurrence and sanction of the Attorney-general; when I say the Attorney-general, I simply mean the public prosecutor.

2410. Are you of opinion that the functions of a public prosecutor might be conveniently vested in a minister of justice?—My own view with regard to a minister of justice is, that it is of the highest importance that we should have such a functionary in this country. There is such a functionary in every other well-constituted country, and I think we ought to have one here; but then my opinion is, that that is a functionary who ought to stand upon a very much higher footing than that of public prosecutor. I think the public prosecutor ought to be responsible to him, and under his control.

2410*. Lord *Stanley*.] Will you state what the functions of a minister of justice might be?—I think that he should not be public prosecutor; I think he should control the whole; that he should have under his charge all that relates to the appointment of judicial functionaries, and to the seeing that the law is in a proper state; wherever there are any defects, not only in the administration of the law but in the law itself, it should be his duty to see to its amendment; to see that all that is kept in perfect order, and if there is anything out of order in the working of the law, to see that it is remedied by legislation. Those are the functions of a minister of justice in other countries.

2411. *Chairman*.] And you would have him at the head of the *Conseil d'Etat*, of a sort of staff who should act under his direction?—I have not compared the system in other countries so as to form any decided opinion upon that, but I am very decided that he should not be public prosecutor.

2412. Would you have him so far political as to go out with the Government?—I would rather not enter into that point; it strikes me it is foreign to our present purpose.

2413. Mr. *Philipps*.] Would you propose that he should exercise a supervision over the drawing up of Acts of Parliament?—I think so; I think that would be a matter of vital importance. My only object in speaking of him at all is this; I think that he should not be lowered, if I may say so, to the character of public prosecutor; he should be very far above that.

2414. From what class of persons would you select the district agents?—I think from persons acquainted with the law, because it would be their business to see that the evidence satisfied the requirements of the law.

2415. Do you propose that they should be barristers?—No; attorneys. I do not think that the appointment of a barrister for each district is an essential part of the scheme. Many persons object to it; many persons think it would tend, in the first place, to make the Bar subservient to the Government of the day, or whoever had the distribution of that patronage; that, in the second place, it would tend, as, indeed, it must, to limit the number of practitioners in the criminal court; and consequently that it would prevent the school for young practitioners,

practitioners, which now exists, remaining open to them. It certainly would be open, in some degree, to those objections. I do not think that those objections, in practice, amount to very much, because we have the whole of this scheme in actual existence at this moment in Ireland, where it has existed for a very long time. I think, indeed, that there it might be, much improved; but, still we have the fact that there are Crown attorneys upon all the circuits; that there are counsel nominated, I think, by the Attorney-general, who prosecute in criminal cases; and we do not find the Bar in Ireland at all wanting in efficiency as regards the conduct of criminal cases, nor do we find the Bar more subservient in Ireland to patronage, either Government patronage or any other, than it is in England. Therefore I do not think, myself, that there is anything very grievous to be apprehended upon those grounds. At the same time, I know that there are many persons, and many persons of authority in the legal profession, who think that it would be a mischievous thing to limit the choice of counsel. Some think there is no necessity for having district counsel, but that if you had a district agent, that district agent might hand the briefs to those counsel whom he might think best qualified to conduct prosecutions, and that, according to the magnitude and importance of the cases, he would distribute his briefs among the senior or junior members of the Bar. I do not think that that is the important part of the scheme, though, in my own view, I think it desirable to have permanent counsel attached to each circuit, or each district, because with them the district agent might communicate, and in any case arising upon any circuit or district, the counsel might come to the Attorney-general and say, "Here is a case of some difficulty; I should be glad of your advice how to act;" then the Attorney-general would consult with him, and say, "You must have such and such evidence," to fill up any links that are wanting. On the other hand, if the counsel said to the Attorney-general, "I think there is no case," or "no case upon which we should succeed, and that it ought not go to trial," the Attorney-general would exercise his discretion upon that. Still I do not think that this is the more important part of the plan. The great want, the great desideratum, as it strikes me, is the having an officer whose business it shall be to prepare cases for trial, to see that when brought into court, they are brought into court in a state in which the final decision can be taken upon them satisfactorily to all parties concerned, or who, upon the other hand, conscious of the infirmity of the case, and that it is one in which the party should not be put upon his trial, either from justice to him, or from expediency to the public, shall have the duty of communicating that circumstance to the Attorney-general. The mischief is, that the only party who can stop a trial is the Attorney-general, and yet there is no person to point out to the Attorney-general, "Here is a case coming on in which the man should not be put upon his trial," or "Here is a case coming on in which it is certain he will be acquitted, because the proofs are not complete." In many a case a man has been put upon his trial and acquitted, who, if he had been tried three months afterwards with more perfect evidence, would have been convicted; yet there is no one whose duty it is to intervene to stay the proceeding.

Sir *A. Cockburn*, M. P.

28 June 1855.

2416. Mr. *Miles.*] In your opinion, supposing an alteration of the law occurred, such as is suggested by this scheme, when should a *nolle prosequi* take place?—The Attorney-general can do it now at any time after the indictment is prepared; he cannot do it before.

2417. Would you have it done upon the determination of the district agent?—No, I think not; I should object to that; I think the district agent ought, under no circumstances, to be allowed to stop a case from taking its full course to a complete trial and verdict, except under the immediate direction of the Attorney-general.

2418. Then the attendance of the prosecutor and witnesses would be precisely the same as it is now?—No; it would be the business of the district agent to give them notice not to attend.

2419. Not previously to the indictment being preferred?—Yes; because I would give the public prosecutor the opportunity of saying, "No indictment shall be preferred;" but here, again, if it should be thought that that is not desirable, that again need not form an essential portion of the scheme of a public prosecutor. You may say that it shall be the duty of all persons bound over to give evidence to attend at the assizes; that the public prosecutor may, as the Attorney-general now can, enter a *nolle prosequi*, but that he shall not do it until

Sir *A. Cockburn*, M. P.

28 June 1855.

until after the indictment is prepared, in order to prevent the possibility of any abuse, and to secure that whatever he does shall be done only in public. What I am so anxious for is this, that there shall be some one whose duty it shall be to make the case as complete as he can, and whose duty it shall be, if the case in his judgment is incomplete, to communicate with that functionary who can alone interpose and prevent the trial.

2420. We will suppose this district prosecutor to be appointed, to whom all cases of any weight and magnitude are referred from the magistrates; am I to suppose that the magistrates will not have power, upon their own responsibility, to commit prisoners for trial, unless they have at the same time the consent of the public prosecutor?—No; I do not see any reason why the magistrates should not commit; and I think that would be a very salutary and useful check upon the public prosecutor.

2421. Then it may occur that the magistrates may commit upon evidence which the public prosecutor does not think sufficient?—Just so.

2422. That being the case, if the Attorney-general, or the person acting for the Attorney-general, having communication with the public prosecutor, hears that, my wish is then, of course, to stop as much expense as I possibly can, and to prevent the witnesses and the prosecutor coming, and I want to know whether there would be any objection that, by some process of law not now in existence, the public prosecutor should have the power of saying, "We intend to enter a *nolle prosequi* upon that case"?—Quite the contrary; I think that it would be desirable; it would stop expense, and it would be the duty of the district agent to communicate that to the parties who had been bound over to attend and give evidence at the trial.

2423. Do you not think that that, by some possibility, might bring the magistrates and the public prosecutor into collision, which would be disadvantageous?—That is no more than would take place now in such a case, supposing the case were brought to the knowledge of the Attorney-general. Suppose, for instance, that the prosecuting attorney were to write to me to say, "Sir,—Here is such a case in which the magistrates have committed. I am the attorney for the prosecution, but the prosecutor agrees with me in thinking that it is not a case in which we ought to prosecute; that we shall not convict; the magistrates have been over hasty in committing. If the case is postponed till some future time we may possibly get evidence which, at the present moment, we have not got, which will lead to the conviction of the man. We cannot stop the prosecution; the magistrates have committed, and it must run its course: it can only be stopped by your entering a *nolle prosequi*." I could then stop it. Such a thing would be one of very rare occurrence. Half the people in the country do not know that the Attorney-general has the power of interposing in such a case; but supposing that representation to be made, if satisfied that the case was not fit for trial, or ripe for trial, I should interpose by a *nolle prosequi*. I might do it now, and so might be brought into collision with the magistrates. The magistrates would be perfectly conscious that the public prosecutor, the Attorney-general, has that power and can exercise it; they would of course expect that he should only exercise it in a case where he was thoroughly convinced, after great deliberation and most cautious attention to the case, that it was one which could not safely go to trial. I presume that they would give the public prosecutor credit merely for a desire to discharge his duty, and that they would no doubt say, that acting under the best judgment which he could form, he had done right. It would not be done by the district agent. I can quite understand that, if the magistrates had committed a man, feeling that it was a case for commitment, and then a mere district agent, an attorney in the country, were to say, "I will interfere; this is not a case for trial; the magistrates were wrong, and I shall not go on with it," there would probably be dissatisfaction on the part of the magistrates; but if they felt that the case had been sent to London to the Attorney-general, and that he whose business it was to prosecute, if a prosecution could be possibly maintained, had felt that it was not a case which could go safely to trial, either from feelings of justice towards the accused, or on public grounds, I think they would be satisfied.

2424. Then I thoroughly understand you that it would not depend upon the district agent, but upon the fiat of the Attorney-general?—Certainly. I should think that a most essential condition.

2425. *Chairman.*] Would you take away from the private party the right to prosecute; supposing the magistrates committed, and the district agent thought there

there was no case, and the Attorney-general confirmed that opinion, would you deprive, in that case, the private party of the power of going before the tribunal if he chose?—Not at all. I think that is one of the merits of the Scotch system, that whereas if the prosecution is to be conducted at the public expense, it must be conducted by the Lord Advocate, who exercises entire and despotic control over it, still if the Lord Advocate says, "I will not prosecute," the private individual has a right to prosecute, and a right to employ his own agents; but then he does it at his own risk.

2426. The risk of an action of malicious prosecution, or of the expenses?—Yes; if he fails he does not get his expenses, and he is always open to an action for malicious prosecution; and it would be certainly very fairly said, that he must have been influenced by very strong vindictive feelings to go on with a prosecution which the public prosecutor thought ought not to be brought.

2427. Then you agree with Mr. Bentham, that the desirable system is one which should neither be within the power of the Attorney-general, nor entirely at the caprice of the prosecutor, but something between both?—Certainly; in which you should retain the power of the private prosecutor to go on notwithstanding the backwardness of the public prosecutor, as a means of stimulating the latter into action, where he is disposed to be remiss in his duty.

2428. Mr. *Solicitor-General for Ireland.*] But you would not take away the power of the Attorney-general in the case of a private prosecution to interpose if he thought fit?—Certainly not in any case; because there the Attorney-general is acting not only under responsibility, but in the face of Parliament and of the public.

2429. Lord *Stanley.*] In the scheme which you have sketched out, have you at all calculated the number of district agents who would be required?—I have not; but the view I take of it is this: there are a given number of prosecutions; for the conduct of that given number of prosecutions a certain number of private attorneys are at present necessary, and are employed; their emoluments must come to a certain sum. So, there are a given number of counsel concerned in prosecutions, whose fees must come to a certain amount; and I am strongly disposed to think, that if you take the whole of the present expenses which go into the pockets of professional persons, attorneys, and counsel, and combine them, you will get a fund sufficient to pay the expenses of the district agents, and of these district counsel. I think the fallacy of the reasoning of many persons whom I have heard talk of the enormous expense which such a system would entail is, that they think it is an expense to be superadded to the present expense of prosecutions, whereas you must set on the opposite side of the account all that private attorneys and private counsel, if I may use the expression, get from prosecutions at present. I think it would come to pretty much the same thing, or that the additional expense would not be very great; and I must say, that looking to the fact that in every other great country, except England, there are public prosecutors in the shape of subordinate agents, that there is the Attorney-general, the Procureur-general, or whatever he may be called, with a staff under him to conduct these prosecutions: considering that every prosecution implies that it is an offence against the community which the community is seeking to visit with punishment, I think it does seem very anomalous and very inconsistent, that we should leave the conduct of prosecutions of offences against the community, in other words, public prosecutions, to the mere control of private prosecutors, who may settle these matters, or do what they like with them.

2430. Mr. *Solicitor-General for Ireland.*] You look upon this suggested change as a matter of great public policy?—I certainly do.

2431. In which the question of expense is rather a secondary and unimportant point?—I think it is a secondary consideration. At the same time I am bound to say, that although there are many anomalies and many imperfections in our administration of criminal justice, still, to a great extent, it is efficiently worked, and practically produces, generally, beneficial results. Supposing it could be shown that there would be very great evils, in the way of expense or of corruption exercised through the Government upon persons who might be seeking its patronage; if you could show very great and glaring evils as likely to result from this change, I should say that upon the balance of good and evil there might be a question as to its expediency; but not seeing those apprehended evils in the formidable magnitude in which they present themselves to the minds

Sir *A. Cockburn*, M. P.

28 June 1855.

of some persons, but, on the other hand, seeing very great anomalies and imperfections in our existing system, which I think, both in principle and in practice, unworthy of such a country as this, and such as place us in a comparatively degrading position with reference to the manner in which public justice is administered in other countries, I am clearly in favour of the change.

2432. *Chairman.*] You would have the district agents solicitors?—I think so.

2433. Would you not have barristers eligible, just as you have a barrister as solicitor to the Treasury?—I do not see any objection to that, with this exception, that whereas the attorney could not possibly act as counsel, I think it is but fair towards that branch of the profession (which, after all, we must more or less consider), inasmuch as it properly belongs to their department of the law to prepare cases for trial, and to counsel to act as advocates when the cases are brought into court, and as the one branch of the profession cannot invade the province of the other, or ought not to be allowed to invade it, as regards the advocacy, I think it is but fair to them, seeing that they are perfectly competent for the discharge of the duties, to keep the two branches of the profession distinct, and not to encroach upon their department.

2434. After all, it is a mere question of detail?—Just so.

2435. Lord *Stanley.*] The question which I put just now was not intended to refer to the subject of expense; I put it for this reason: I understood you to say that there ought to be a considerable number of district agents?—No doubt.

2436. You would require at least one in every county, and probably in some counties two or three?—Certainly.

2437. I also understood you to say, that in important cases the opinion of the Attorney-general would be taken, in addition to that of the district agent?—Just so.

2438. And that the Attorney-general would exercise a general superintendence over these persons?—Yes.

2439. Would it be in the power of one person like the Attorney-general, in addition to all the other duties which he has to discharge, to take upon himself the general supervision of, perhaps, 70 or 80 such officers?—Perhaps not, supposing there were no one to intervene between the Attorney-general and the district agent, especially if the cases in which his assistance would be required should prove to be very numerous; but if you gave him, in addition to the district agent, a district or circuit counsel (and very likely one counsel for a circuit, or for several counties, would be quite sufficient), as such counsel could act in the great majority of cases, and would only apply to the Attorney-general, except in cases of more than ordinary difficulty, then I think the Attorney-general would be perfectly competent to the discharge of that duty. Very likely it would not happen more than once in a month that a case of difficulty would be brought to him from each circuit. The Attorney-general in Ireland discharges those duties very efficiently, though it is true he is not so much pressed with business as the Attorney-general in England. Then there is the Lord Advocate of Scotland, who has functions to discharge of a very varying and a very important character; he contrives to get through it, because he has a staff of subordinates who assist him in it. Besides which, I think that after a very short time the district agents, from constantly devoting their sole and exclusive attention to criminal matters, would become quite familiar with the course of their duty, and would have to address themselves to the Attorney-general very seldom; and then I think even with nobody else, that the Attorney-general would be able to get through the duties.

2440. Mr. *Miles.*] You mentioned previously that you thought that a district counsel would be necessary?—I think it is very desirable. I think it would simplify the thing, and I think it would not increase the expense; but if the objection which many persons sincerely and seriously entertain to the notion of having district counsel exclusively employed in those matters should be found an insuperable or a very great objection, I do not think it absolutely necessary to the working of the scheme. I think the appointment of district agents would be an immense advantage gained, even if you had no district counsel; and I think, though it would be throwing an additional amount of labour upon the Attorney-general to call upon him to communicate with the district agents without the interposition of district counsel, still that he might do it, and would be bound to undertake it, if necessary, for an object of such great public importance.

2441. *Chairman.*]

Sir *A. Cockburn*, M. P.

28 June 1855.

2441. *Chairman.*] But the appointment of a public prosecutor would, in your opinion, be the great feature of the scheme?—Yes.

2442. In the event of the public prosecutor being allowed to appeal to the Attorney-general, except in cases of treason or cases affecting public order, it would hardly be necessary to appeal to the Attorney-general?—No. The cases where there would be an application to the Attorney-general would be in general either to postpone the trial or not to bring it on at all. Very often you might have a case where, a man having been committed for trial, it would appear to the district agent or to the district counsel, if there were such a person, that if the trial were then gone on with they should infallibly fail; whereas if they waited a year or two, a person who has gone to Australia or elsewhere, might return to give evidence; and the man would be punished if guilty. But I think in such a case the trial should not be postponed or stopped without the intervention of the Attorney-general.

2443. Therefore the use of the interposition of the Attorney-general would be that the ends of public justice should not be defeated?—Yes.

2444. Mr. *Miles.*] In whom would you put the appointment of the district agents?—As to that there is a difficulty. I would put it unhesitatingly in the hands of the Home Department.

2445. *Chairman.*] Lord Campbell protested against the Home Department?—I will mention why I prefer the Home Department. I think that where you have to appoint important public functionaries, their appointment ought to be in the hands of persons immediately responsible to Parliament. The Home Secretary is in one or other House of Parliament, and if he appoints an improper functionary to fill so important an office as that of conducting the public prosecutions of the country, he should be capable of being made to answer in his place in Parliament for such misconduct. If you place the appointment in the hands of the judges, which is the only alternative,—for if you put it in the hands of the Lord Chancellor it is the same as the Home Department,—excepting that the Lord Chancellor is, generally speaking, not so immediately responsible as the Home Secretary, who is generally in the House of Commons and can be much more easily called to account for his conduct,—if you place the appointment in the hands of the judges, I fear it will be a source of favouritism and nepotism, and all that sort of thing. The judges are not responsible; they are persons whom people are extremely reluctant to attack; they cannot be attacked in Parliament except through very indirect means, and they are not there to answer for themselves. I believe the right thing to do would be this: allow the head of some public department of the State to have the appointments, but stamp with parliamentary and with public reprobation the notion of making these appointments, or any other appointments connected with the administration of the law, matters of mere political patronage.

2446. Mr. *Miles.*] Do you not think that any Bill which proposes so great an alteration of the law as regards public prosecutors, as this Bill does, should be introduced by Her Majesty's Government?—I do; and I am bound to say, that when my honourable and learned friend first introduced his Bill, he was good enough to withdraw it upon the assurance which I gave that Her Majesty's Government would take the matter into their serious consideration, with a view to making it a Government question; and, as I have stated before, I did this mainly at the instance of my Lord Campbell, who told me, as I have already said, from the Bench, that it was a matter which Her Majesty's Government ought to take up, and it was almost immediately afterwards, that, on my honourable friend bringing in his Bill, I said to the head of the Government, and to other members of the Government upon the Treasury Bench, "Lord Campbell, the other day, expressed himself so strongly to me from the Bench, that I think it is a matter which the Government should take up;" upon which I was authorised to say to Mr. Phillimore that the Government would take it into consideration. I considered it for a year, and could frame no scheme that I did not think would be open to great opposition; and I told my honourable and learned friend the Chairman, that I was convinced that nothing but a thorough investigation of the subject before a Committee of the House of Commons would open the minds of people to the necessity of a change; that it would require a thorough investigation to let in daylight upon it, and that when that had been done, I thought that if the Committee should come to the conclusion, after receiving and weighing the evidence, that a change was desirable, it would be a thing which the Government might

Sir *A. Cockburn*, M. P.

28 June 1855.

might well take up; whereas if the Government took it up before there had been such an inquiry, it would only end in failure.

2447. The Lord Chief Justice stated that there were such great objections to the scheme at the time when he was Attorney-general, that he thought them insurmountable; do you think that such objections exist at the present time?—I think not; at the same time I give all the weight which is due to so high an authority; but, I must say, I am surprised by the fact that after weighing all the difficulties, he did, from his seat, as Lord Chief Justice of England, in the Court of Queen's Bench, address me as the law officer of the Crown, and tell me that it was absolutely incumbent upon the Government to do something in the matter. Afterwards, when we had had so much difficulty in devising a scheme, and my honourable friend and I had laid our heads together, and could not agree upon a scheme which we thought likely to receive the support of Parliament, I went to the Lord Chief Justice, and said, "You recollect that you have more than once called upon me to introduce in Parliament, with the weight of the Government, some scheme for a public prosecutor; I have been considering the matter very carefully; I have asked one or two friends to assist me, and though I am, more or less, under a pledge to Mr. Phillimore to do something on behalf of the Government, he having withdrawn his measure on the assurance which I made, I am at a loss, not in devising a scheme, but in devising such a scheme as I think Parliament will adopt." His answer was, "The fact is, Mr. Attorney, that all the while I was in office the thing was constantly present to my mind; I always felt the necessity of it, but I have not been able to hit upon a scheme." I naturally felt, Then, my Lord, it was rather unfair of you to put it publicly upon me, when you had not been able to succeed yourself. However, all I can say is this, that without intending for a single moment to assert that the scheme which I have taken the liberty, more or less loosely, of throwing before the Committee, is a good one, or is practicable, the result of very many years' experience of the working of the criminal law in England has produced upon my mind the firm conviction that we should have, in some form or other, a public prosecutor.

2448. Mr. *Philipps.*] Supposing a minister of justice were appointed, would you vest the appointment of these district agents in him?—I think so; I would take the whole of that which relates to the administration of justice out of the hands of the Home Office, and place it (as it is placed in France, and in Belgium, and, I believe, in almost every country in Europe) in the hands of a minister of justice.

2449. *Chairman.*] I quite agree with you as to thinking that the very worst hands in which you could place the distribution of such patronage would be the judges; but with regard to the Lord Chancellor, or the Home Secretary, I do not myself care the least how it is. I need not say that I have not the slightest interest as to which of the two it should be; but there is this with regard to the Lord Chancellor, which does not apply to the Home Secretary, do you not think that the Lord Chancellor would be more likely to consult the views of the profession as to the proper persons than the Home Secretary, who is, generally speaking, a stranger to the profession and the tone of feeling in the profession?—I think that is undoubtedly true as to the appointment of the district counsel. I think, with regard to the district agents, the Chancellor is not brought into contact with them in the same way as the Home Secretary, who is in constant communication with the magistrates, and with the local authorities, who would be likely to be able to give him information. If in any county, take for instance the county of Somerset, he had to appoint a district agent, being in frequent communication with the magistrates of that county, with the chairman of quarter sessions, unless he had himself local knowledge of the place, he would be exceedingly likely to say to those gentlemen when he saw them, "I wish you would tell me who is the fittest person." There I think the Home Secretary would be a better person than the Lord Chancellor; but with regard to the members of the Bar, there is no doubt that the Lord Chancellor is much better fitted than the Home Secretary to appoint them.

2450. Mr. *Miles.*] Would you recommend, that in case of the district prosecutor being appointed he should attend upon the grand jury to answer any question which might be put to him?—I see no objection to that; I do not think he ought to take any part in the discussions of the grand jury.

2451. Merely to be referred to?—Merely to be referred to. I think he should take his witnesses before the grand jury, in order to their being there examined.

Occasionally,

Occasionally, if there were any difficulty, the gentlemen of the grand jury might apply to him; or if they thought that some other witness should be called before them, they might communicate their desire to him.

Sir *A. Cockburn*, M. P.

28 June 1855.

2452. Would you likewise recommend that the expenses should be allowed to prisoners' witnesses in certain cases?—That I think should be done, but done under very careful superintendence. I have no objection whatever to leave that to the magistrates; and I think even if you have no public prosecutor, it would be a very great improvement in our system that the magistrate, upon hearing a full statement of the case which the prisoner intended to set up, and the names of the witnesses who might be supposed to be capable of substantiating that statement, should have the power of ordering the attendance of those witnesses; because it is a very grievous thing that a man against whom there is a *primâ facie* case, which we know very often is consistent with innocence, should feel that if he could produce certain witnesses he could make good his innocence, and yet that he should have no means of taking them to the place of trial, which is often many miles from the place of his habitation. If you suppose the case, which sometimes may occur, of a man against whom there is a *primâ facie* case, a presumptive case of guilt, yet who is conscious of innocence, it must be a most grievous thing to him to be tried, convicted, and punished, and to be all the while conscious, not only of his innocence, but that there were the means of proof, if he could only have adduced them. It is a state of things perfectly appalling and revolting to all one's better feelings; and society, although it has the deepest interest in the conviction and the punishment of guilty persons, has also the deepest interest in maintaining the innocence of those who are really guiltless; and it is as much to the interest of society that the innocent man should be acquitted, as it is that the guilty man should be convicted. There ought to be some mode of compelling the attendance of witnesses, and the means of producing them upon the trial, for the accused. On the other hand, there can be no doubt that it would be subject to the most abominable abuse, if you did not control it; and I think it might be left, under the present system, to the discretion of the magistrates, which should never be exercised except a man chooses at once to state what the case is to substantiate which he desires to call the witnesses; because then you have a double safeguard: in the first place, the magistrate is not likely to be misled if he knows beforehand the nature of the case, nor will he be induced to allow witnesses to be summoned who will be of no use to the man when they come; and, in the next place, you are secured against having a fraudulent defence afterwards set up, or if the man sets up a fraudulent defence afterwards, at all events you have an opportunity of contrasting it with the statement made before the magistrate. You know perfectly well that now, in nine cases out of ten, the man says, "I reserve my defence until the trial." Then upon the trial he may call some witness to set up a defence entirely fraudulent. By the plan which I have suggested, you would protect yourself against that. If he said, in the first instance, "My statement is so and so, and I desire such witnesses," the magistrate would know what his defence was; or if he said, "I desire witnesses to be called," the magistrate would say, "Tell me what they are to prove." If you appoint a public prosecutor, I think that then it should be in the discretion of the public prosecutor whether or not such witnesses should be called, or you might leave it in this way, you might leave it in the discretion of the committing magistrate, subject to what the public prosecutor had to say upon the matter.

2453. Then would you allow the opinion of the public prosecutor to be final in that case?—I am not quite sure about that; I hesitate as to whether I would leave it in the absolute discretion of the public prosecutor, or whether, considering that he may have a bias in the matter, I would not leave it to the magistrate, after hearing the public prosecutor. I would make it final in this respect, that wherever the public prosecutor said that the witnesses should be had, there you might, without any danger, allow at once the expenses to be paid by the public. Supposing the public prosecutor should resist the application, then I think that either the court before whom the trial was about to take place, or the magistrates, might have a discretion upon that point; but I certainly think that something ought to be done to prevent what one sometimes hears in a court of justice, even supposing it to be untrue. This happens to me frequently when I am sitting trying cases as recorder of Bristol. I say to the prisoner, after the case for the prosecution is closed, "Prisoner, you have heard this case, what have

Sir *A. Cockburn*, M. P.

28 June 1855.

you to say in your defence?" He makes some statement which savours sometimes of innocence. I tell him, "If you can prove that it will be an answer? Have you any witnesses?" He says, "I have, but they are not here." "Why are they not here?" "I had no means to bring them." This may be false; but in some instances it may be true, and it is shocking to us to think that there are instances in which it may be true. But even if it is false, it produces a painful impression in the administration of justice. You see a poor fellow in the dock in rags, or in humble attire, and probably without a shilling in his pocket, with no means of employing counsel or attorney, and he says, "in such a place there are persons who could prove my innocence, but I had no means to send for them." You have no means of sending for those persons, who are perhaps at a distance; and the whole thing produces a painful impression upon the court, the jury, and the public.

2454. Relative to the appointment of the magistrates' clerks, do you not think it would be better to do away with the power in the country of magistrates appointing their own clerks, and to allow the clerks to the magistrates only to be appointed as they usually are at the petty sessions; would you allow the individual magistrates to appoint them?—It is a matter which has come so very little within my own observation, that I do not feel qualified to form an opinion upon the subject, or to give one. It might be perhaps more expedient in one respect, namely, that very often a magistrate appoints an individual as his clerk, more from a regard for the individual than from a conviction of his perfect competency for the office. On the other hand, it is no doubt a satisfaction to a magistrate, who is very frequently called upon to act in emergencies by himself, to feel that he has some one in whom he can place the fullest confidence, and upon whom he can rely.

2455. Would you allow any person to be appointed, even individually, by a magistrate, who should not be a professional man?—There may be a reason for that, certainly; you have a greater chance of professional capacity in a professional man than you have in another man who has not had the same opportunity of education.

2456. *Chairman.*] Then the result is, that, in your opinion, some change is extremely important, with a view to the pure administration of criminal justice?—I think so. With regard to the improvement of criminal justice, I will not say that it is now impure, but it has a good many blots and imperfections in it, which I think are not consistent with the highly civilized state of this country; and I am induced to suspect the goodness of a system which differs from that of every other country. Then, with reference to the evils which are supposed to result from the suggested system, we have seen it tried not only on the Continent, but we have seen it tried in Scotland and in Ireland, and I am quite sure, from what I can gather, that there is no one, professional or layman, in either of those two countries who would desire to see their system exchanged for ours.

Martis, 3° *die Julii*, 1855.

MEMBERS PRESENT:

Mr. J. G. Phillimore.	Mr. Walpole.
Mr. Solicitor-General for Ireland.	Mr. Napier.
Mr. William Ewart.	

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

The Right Honourable *Joseph Napier*, a Member of the Committee; further Examined.

Right Hon. *J. Napier*, M.P.

3 July 1855.

2457. *Chairman.*] YOU wish to add something to your evidence, I believe?—I have found, since the day I was examined before, some papers to which I wanted to refer, and which I had not with me, but which I have since laid my hands on. I have here the heads of improvement as to different matters in which I thought the

Right Hon. *J. Napier*, M. P.

3 July 1855.

the system might be improved; and there are instructions to the inspector of the constabulary, to the resident magistrates and magistrates in petty sessions, to the sessional solicitors, the clerks of the peace, and the clerks of the Crown. There are also suggestions with regard to the mode of taking informations at petty sessions. These were prepared, by my direction, by a very experienced Crown solicitor, Mr. Seed, who communicated fully with me and the law adviser, and these instructions were the result. There are also some matters about the sessional prosecutors, showing the quantity of important business which they may have to discharge. This document was sent to me from the county of Carlow, it being a return as to the last quarter sessions there; there were 71 trials and 51 convictions. That was one reason why I mentioned about the distribution of the cases between the sessions and the assizes. That is a very important thing; but in England, I believe, there is a statute which regulates that.

2458. There are statutes in England which expressly prohibit certain cases from being taken at the quarter sessions?—I think there is a statute of 5th Victoria which defines the class of cases. In Carlow the sessional prosecutor's salary is 75*l.* a year. This is a letter from the clerk of the peace for the county of Carlow; he says, "At the assizes there is, in addition to the clerk of the Crown, a Crown solicitor whose salary for doing the business at the two assizes for this county and Queen's County is 500*l.* per annum, and an allowance of 200*l.* for clerks and expenses." He says that the average number is five to one between the sessions and the assizes in criminal cases. The Solicitor-general for Ireland asked me about the additions to the salaries. I caused to be made out a statement of what appeared to be a reasonable addition to the salaries for the different counties. I have a table containing the amount of the actual expenditure under our present system, and some proposed changes. I think it right to say that they have not received final revision; but I think, in substance, they contain the proposals. (*The Witness delivered in several Papers.*)

Vide Appendix.

2459. Do you think that your system adds on the whole to the public expenditure in criminal prosecutions, as compared with ours; for instance, where there are so many barristers and so many separate attorneys?—I do not know if ours be more expensive.

2460. In our case there are very often eight or ten prosecutions at sessions, with eight or ten attorneys, all of whom are paid out of the public fund; besides that, there are eight or ten counsel, each of whom has his fee upon the brief. Taking that into consideration, do you think that that system would be likely to be more expensive than yours?—I should say, if that is the state of things, it is more expensive than ours. I see no reason, with regard to ours, why it should be called an expensive system, because the true plan is to have it efficiently done by competent and proper persons, and to have them fairly paid.

2461. You would not consider it a valid objection with reference to so important an object as the proper administration of criminal justice, even if more expense was incurred?—I do not think it is a question of expense; it is the duty of the Government to have that department efficiently conducted, and whatever expense is necessary, is a part of the necessary incidents of Government. There were some things in Ireland in which I thought there might be reduction, and in some I thought there ought to be an increase. There are differences, I think, between the two countries which it is right to advert to. Very possibly, for instance, in England you might have district prosecutors, more corresponding with our Crown solicitors than with our sessional prosecutors. I think I observed before, that in Ireland, from local causes, it is sometimes unadvisable, in my judgment (but there is a difference of opinion about it), that the Crown solicitor should be a local person. I think that it is enough to have the sessional prosecutor a local person; but I think it most desirable in Ireland for the class of cases growing out of anything religious or political (as I have observed before), that the Crown solicitor and the circuit staff should have as little local connexion as possible. Agrarian cases, political cases, and religious cases, any of these three, and perhaps others, are mixed up, more or less, with local matters. If you have, for instance, a very respectable man on the circuit, he will inevitably have a good deal of private business connected with proprietors, and others there; however, the reason of this difference is gradually disappearing; but I think in England you may have less difficulty in carrying out a system of district prosecutors.

2462. The objections which exist in Ireland to local residence do not exist in England?—

Right Hon. *J. Napier*, M.P.

3 July 1855.

England?—I do not see that any objection is likely to arise; on the contrary, I think it would be a most valuable assistance in England.

2463. Mr. *Solicitor-General for Ireland.*] I find in Appendix (C.) to the Eighth Report of the Commissioners on Criminal Law, a paper by Mr. Pitt Taylor, in which he makes some observations on the Irish system. He says, "First the circuit Crown solicitors, being appointed to conduct the criminal business of a large district, have neither the local knowledge requisite for the due investigation of offences, nor time to prepare the cases properly for trial. Arriving in each assize town only a day or two before the judges, and being seldom fully acquainted with the circumstances of the cases to be tried until their arrival, they have scarcely time to draw the briefs before the counsel are called upon to open the facts to the jury, while the omission of material evidence is not discovered till it is too late to effect a remedy; the consequence is, that prisoners too often escape, when, had the briefs been delivered at an earlier period, or had the evidence been examined and arranged by a lawyer resident on the spot, they must have been convicted;" that is the first objection which he takes to the Irish system. From your experience, is that objection well founded?—I do not think it is to the extent to which he puts it. What I was suggesting as to the improvements in our system, I think would remove his objections altogether. I think some cases might be looked into more carefully beforehand; and also, I think that the plan of giving the Attorney-General all the cases immediately before the circuit is objectionable; that, however, I think you mentioned had been recently altered; but I do not think at all that the objection, to the extent to which Mr. Pitt Taylor puts it, is well founded. For instance: I should say of the Crown solicitors, we will take Sir Matthew Barrington, Mr. Maxwell Hamilton, of the North-east Circuit, Mr. Kemmis, of the Leinster Circuit, Mr. Seed, of the Home Circuit, Sir Edward Tierney, on the North-west Circuit; they are thoroughly conversant with every local matter; they are all men of a high, respectable class; they are most efficient, and know everything which is going on, and I should say that their business, on the whole, is well got up and well attended to. At the same time, I think there are occasionally cases in which, by a little more timely looking into, they could be more efficiently got up. Some cases may and do arise, but I do not think that objection at all applies to the system.

2464. At any rate, if it applies to the system, the Attorney-general has the remedy in his own hands?—Quite easily. I am quite sure that such objections can be to a great extent removed, and be completely got rid of by, in fact, administrative remedies.

2465. Mr. *W. Ewart.*] Mr. Pitt Taylor, in his statement, seems to think that the Crown solicitors should be local officers; would you approve of their being local officers?—I should not, for Ireland.

2466. Mr. *Solicitor-General for Ireland.*] Mr. Pitt Taylor next objects to the system of paying the Crown Solicitor by a salary, in place of fees?—I think the system of paying him by salary is the right system. He speaks there about the Crown Solicitor's giving few and meagre briefs. I think, if you have a respectable man and pay him by salary, if he does not do the duty rightly, it is the business of the Attorney-general to correct it without scruple.

2467. *Chairman.*] Then you would agree to that part of my Bill which particularly provides that they should be paid by salary?—I think they should be paid by salary.

2468. It takes away all inducement to multiply the number of the prosecutions?—I think so.

2469. Mr. *Solicitor-General for Ireland.*] Mr. Pitt Taylor says, "Thirdly, we object to the permanent appointment of Crown counsel, not only because the effect of such appointments is to continue men in situations which, from age or infirmity, they are wholly incompetent to fill, but because even the young, when released from the wholesome fear of competition, have a natural tendency to become careless and inefficient; and, moreover, those members of the Bar who, whatever be their acquirements, do not bask in the sunshine of court favour, can scarcely fail to be discouraged at a system of monopoly which, while it renders their more fortunate brethren indifferent to success, holds out no prospect of emolument or distinction to them." Applying the question to Ireland, and to the system which you have known to be in force there, do you think that those observations of Mr. Pitt Taylor's are well founded?—No; I think it is quite right

right to have permanent prosecutors. The objection as to age, no doubt, arises sometimes, as it will in every department; a man, probably, sometimes will remain on too long beyond the time when he ought to be there. But that applies to judges; to bishops; it applies to every department; some people say it applies to prime ministers

2470. Mr. *Walpole.*] When the Attorney-general considers that a person has been too long in that office, that is to say, is getting too old for it, or from infirmity or some other reason is unable to discharge the duties of it properly, in what way is he got rid of?—There have been one or two instances of gentlemen retiring.

2471. Of their own accord?—Of their own accord.

2472. But supposing that they do not retire, and they hang on longer than the Attorney-general thinks proper; what is done?—The Attorney-general has power to remove them; I admit, however, that it is a delicate thing, but the Attorney-general, in fact, has the power of removing any counsel, though the usage is not to do so.

2473. Practically, does he exercise that power, or in what way does the matter adjust itself?—I have never known it exercised by official removal, but I have known one or two instances of those who have held the office getting old and retiring; I think there are amicable ways of doing it; you speak to their friends and suggest what is right in that quiet way.

2474. It is done by a good understanding and arrangement, in fact?—Yes, I think so, and I do not see any other way of doing it more suitably.

2475. Do you give them a retiring pension?—No; it is a part of their bar practice.

2476. Mr. *Solicitor-General for Ireland.*] Mr. Pitt Taylor lastly objects in this paper to the system of allowing private prosecutors to prosecute in cases which the Attorney-general thinks ought not to be prosecuted by the Crown; in other words, he thinks that the Attorney-general ought to conduct all the prosecutions, and that none should be conducted which he does not take up?—I do not think that that is worth interfering about, because the cases are submitted to the Attorney-general, and if he does not think right to interpose, he abandons them. I have always found, in cases of that kind, that there is a sort of discredit thrown over them. He might prevent their going on, if he thinks proper; probably, the private prosecutor may get up something additional, but the Attorney-general can enter his *nolle prosequi* at any stage.

2477. You have not known any actual evil to result from allowing private prosecutors to interfere where the Attorney-general does not?—I have not; it is very rare. If he saw that the case was conducted from some malicious motives, or anything of that sort, he might interpose; but I do not see why there should be an absolute bar to the private prosecutor.

2478. *Chairman.*] Do you not think, on the contrary, that the circumstance of the private prosecutor having the power of instituting a prosecution would be a very salutary check upon the Attorney-general, and would prevent him from being remiss?—I do not think that the Attorney-general should exercise an arbitrary power, and the check may be useful, as you say.

2479. Mr. *W. Ewart.*] You are aware that in Scotland the private prosecutor has the power of forcing the public prosecutor to act; he can set him in motion?—As the Chairman was suggesting, it is a very good check, because if the private prosecutor goes on with it and succeeds, it shows that there has been something careless in the public prosecutor.

2480. Does not that power exist in Scotland; are you aware of that?—I am not sufficiently acquainted with it to say.

2481. Whereas in France the public prosecutor has the whole power?—There are cases in Ireland in which sometimes the Crown allows the person who would otherwise be the private prosecutor, to have his own counsel assisting the Crown. There are cases of that kind, but they are very rare, and they are completely controlled; they are merely cases where the parties wish it. Supposing there is a case of murder, the parties may wish to have their own counsel and attorney. In some instances it is a satisfaction to the friends of the deceased, and they see that everything is fairly and properly done; but the Attorney-general does not allow them to control him in any way.

2482. *Chairman.*] The plan suggested by Mr. Taylor would, in fact, give the Government officer the unlimited power of pardon?—Yes.

Right Hon. *J. Napier*, M.P.

3 July 1855.

2483. Would not that be unconstitutional in the highest degree?—Yes, perhaps it would.

2484. Mr. *Solicitor-General for Ireland.*] The papers which you have now handed in were connected with projected improvements when you were yourself Attorney-general?—They were; they related to some matters of detail; I think these improvements would have made our system work much better.

2485. And which it was quite within your province and power, as Attorney-general, to have carried out?—Quite so, if I had remained; it did not require any legislation; that part relating to the sessional prosecutors would have required an increase of their salaries, and I mentioned that I was about to send forward a recommendation to the Treasury to that effect; it would not have been a very large sum, and upon some other matters, I think, there might have been some reductions.

2486. Mr. *W. Ewart.*] Mr. Pitt Taylor suggests that the person who corresponds with the sessional prosecutor might be appointed, as is the case in Scotland, by the local authorities; in Scotland the procurator-fiscal, who, I apprehend, somewhat answers to the sessional prosecutor, is appointed by the sheriff or by the town council. Do you think that that suggestion of Mr. Pitt Taylor's, which is made with a view of obviating the influence of the patronage of the Crown, is worthy of consideration, or would you put the appointment wholly in the Crown, as is the case in France?—The Executive Government is responsible, I think, for the efficient conduct of the prosecutions, and whoever has the responsibility ought to have the appointments. In Ireland, as I mentioned before, the Attorney-general appoints the sessional prosecutor, but the Government appoints the Crown solicitor. The sessional prosecutor does not go in and out with the Attorney-general, but once appointed, he remains during good behaviour. I think that that works very well. I think the patronage is better in a responsible government than in the local authorities. I would not encourage what we call local patronage. The Government is responsible for the appointment of the judges, and for the appointment of the Attorney-general himself, and therefore I do not see what objection can be made to the principle.

2487. *Chairman.*] There would be much more probability of jobbing with local patronage, of course, than with a responsible minister?—I think there might. There is another part of the subject, namely, that connected with the coroners. I think we require a class of men in this country who ought to be well acquainted with medical jurisprudence. Justice constantly fails in that way from the imperfect preliminary inquiries. I obtained a return of the number of coroners' inquests, and in 20 years about 30,000 of them had been held in Ireland. They are an expense to the counties, and they frequently interfere, I think, with the due administration of justice; I think that the coroners' inquiry, according to the old office of coroner, ought to be confined simply to the question whether death came by natural or by violent means, but that everything of the criminal department should be looked into by the responsible officers in the staff of the public prosecutors. For that purpose, you frequently need an able inquiry by a person acquainted with medical jurisprudence at the early stages, and very often justice is defeated by the want of such a person. I believe they have a set of persons trained in Germany, a class of persons who are medical jurists.

2488. Trained in the study of medical jurisprudence?—Yes; I think that class would be very valuable.

2489. Mr. *Solicitor-General for Ireland.*] Do not you think that it would be advantageous that whoever had the conduct of the public prosecutions should be acting directly under Parliamentary responsibility?—I think every public officer ought to be responsible to Parliament. Do you mean by that question that the Attorney-general should always be in the House of Commons?

2490. I do not mean to point to the Attorney-general, but whether he be called the Attorney-general, or the minister of justice, or whatever his title may be, do not you think that the party having in his hands the general control of criminal prosecutions in the country ought to be in Parliament?—He certainly ought to be responsible to Parliament. There ought to be some way by which every part of the Executive Government would be represented in Parliament, and responsible to Parliament, through the mouth of some responsible officer acquainted with the proceedings.

2491. According to the present Irish system, if the Attorney-general is in Parliament, there is Parliamentary control over every prosecution in the country?—

country?—Certainly; and I think there is a good deal of inconvenience when he is not there, for this reason, that when any proceeding is questioned, it is always said, "You are attacking an absent man," although there may be Members of the Government there. I remember a case of that kind which occurred. I do think that where you have to canvass the proceedings of any public officer, it is certainly a great advantage that he should be there in person to explain the course which he has taken; it is fairer to him and more advantageous to the public.

Right Hon. *J. Napier*, M. P.

3 July 1855.

Mr. *George Wilkin*, called in; and Examined.

2492. *Chairman.*] WHAT is your office?—I have assisted the clerk of assize in the North Wales and Chester Circuit.

Mr. *G. Wilkin.*

2493. You have been employed by the Treasury, have you not?—Yes.

2494. Are you at this moment in a department of the Treasury?—No; I am only employed by them.

2495. For what purpose?—To go down to the sessions in Suffolk, to examine into the costs there.

2496. Can you tell us what the expense of criminal prosecutions is to the country throughout England?—I think Mr. Hankins will know that better than I do; I only know as to particular parts to which I have been.

2497. In your opinion, is there a good deal of unnecessary expense incurred under the present system?—Very considerable, I think.

2498. To what causes do you attribute that circumstance?—The laxity of the system, I think, in a great measure.

2499. You have had an opportunity of ascertaining that from your own personal experience?—Certainly.

2500. Correcting bills of costs, and so forth?—Yes.

2501. And you are decidedly of opinion that considerable sums of money which might be saved are spent from the laxity of the system?—Yes, there is a vast expense to the country by the cases which are committed by the magistrates at the present time.

2502. Will you explain that?—I refer to cases where there is not sufficient evidence, and although there may be sufficient evidence even to have a bill found by the grand jury, there is not sufficient evidence to lead to a conviction.

2503. Such cases you believe not to be uncommon?—They are of very frequent occurrence. I believe it will be found that there are at least one-fourth of the cases where there is either no bill or the verdict is "Not guilty;" and if there were a proper party to examine the cases before going before the jury, that would never be the case.

2504. If instead of separate attorneys being charged with separate prosecutions, one gentleman was appointed to manage all the prosecutions which go up from a particular district, in your opinion, would that save expense to the public?—Certainly; because he would then only send up cases where there would be, in all probability, a conviction.

2505. Has it happened to you to observe whether, according to the present system, unnecessary witnesses are taken for the purpose of swelling the costs?—Very frequently. The fact is, that almost throughout the country the police are the parties who conduct the prosecutions.

2506. That is your opinion?—Yes, certainly, from what I have seen; they have the witnesses entirely under their control; they are in charge of the witnesses.

2507. Mr. *Walpole.*] By "conducting the prosecution," you mean, I suppose, getting up the evidence?—Yes; in fact the witnesses are, at the assize town, under their charge

2508. *Chairman.*] And they settle what witnesses shall be called?—Yes.

2509. In your opinion are men called who are not wanted?—A great many.

2510. You have been employed in taxing bills of costs?—Yes, for seven or eight years.

2511. Have you succeeded in saving any money to the public in that time?—I think the costs of prosecutions are reduced now to fully one half of what they were.

Mr. *G. Wilkin.*

3 July 1855.

2512. Mr. *Walpole.*] In what has that reduction chiefly been?—The expenses of witnesses.

2513. Not allowing so many witnesses?—Not allowing such high costs. I will give an instance of that; when I first had the taxing of the costs, there was a chairman of a union who had some prosecution against one of their officers, and he attended as a grand juryman; his charge in the attorney's bill was 5*l.* 5*s.* each day for attendance, and that was charged for three days; that was one witness alone; it was perfectly absurd.

2514. Was not that able to be checked?—Yes.

2515. Why was not it done?—I do not know, except that the system had become lax.

2516. Mr. *W. Ewart.*] Whose duty was it?—The duty of the clerk of assize.

2517. *Chairman.*] Have you any doubt that there is a great deal of jobbing now in order to obtain expenses?—I do not think that anybody who has to tax them can have any doubt of it.

2518. Mr. *Walpole.*] By there having been a laxity of system, you mean two things, as I gather from what you have stated: the one was a laxity of system, which was followed by the want of a conviction, because sufficient evidence was not procured; and the other was a laxity of system, which introduced more witnesses, and a higher amount of charge, than there should have been?—Yes; the laxity of system was also in the magistrates; it was left to the magistrates' clerks; but now, by Act of Parliament, we have the magistrates' certificates, and reduce those charges; they were very heavy.

2519. By laxity of system you mean those two things chiefly?—Yes.

2520. Have you any of the bills which you have taxed, which you can give us to enable us to form a judgment?—No; they always go in to the treasurer of the county, because on the other side is the order for payment.

2521. Could you get us any copies of them?—I could not; but Mr. Hankins I dare say could.

Mr. *Richard Hankins*, called in; and Examined.

Mr. *R. Hankins.*

2522. *Chairman.*] WILL you tell us what office you hold?—I am called Law Clerk in the Treasury; my business is to attend to all the Courts which now make returns to the Treasury; the county courts are also under my department.

2523. As regards the expenses?—Yes; all that which relates to the financial part of it, and also all the criminal prosecutions.

2524. How long have the Treasury undertaken the payment of the expenses of criminal prosecutions?—They began about August 1835, when Sir Robert Peel was making his alterations in the corn laws. It was introduced in order to relieve the agriculturists from the county rate; we then began to pay only a moiety.

2525. And when did you begin to pay the whole?—In 1846. The reason why we only paid a moiety first was, that we should keep, as we supposed, a better check upon the costs of prosecutions, if the county had to pay something.

2526. Mr. *Walpole.*] You mean to say that the county would exercise some check and control, as well as yourselves?—Yes, if we made them pay anything; that was Lord Monteagle's idea.

2527. *Chairman.*] Did that system answer?—The costs at that time amounted to about 70,000 *l.* a year, the moiety; that would have made, if the thing had been as it is now, and we had paid the whole, 140,000 *l.*; we are now paying 250,000 *l.*

2528. What is the present expense of criminal prosecutions?—About 249,000 *l.* or 250,000 *l.*

2529. That has been since the Consolidated Fund has taken it upon its own shoulders?—Yes. We began with the half-year ending 31st December 1835; that was the first time we paid the moiety, and it was 35,184 *l.*, or about 70,000 *l.* for the year. For the following year, 1836, the payments amounted to 82,944 *l.*; that was an increase of 12,000 *l.*, as compared with the half-year of 1835. For 10 years, up to 1845 inclusive, the annual amount varied from that sum to 134,000 *l.*, when we only paid the moiety, averaging during those years, from 1835 to 1846, 108,745 *l.*

2530. Mr. *Walpole.*] From 1846, how was it?—In 1846 we paid the whole expense.

2531. What

2531. What was it in 1846?—It would be just about double the amount.

2532. Have you the figures from 1846 downwards?—I have not got them all down in detail here; of course I had to get out every year, so that I can give them.

2533. What was the average?—£. 227,160.

2534. The highest average before for the moiety having been 108,000 *l.*—Yes.

2535. Why I should have liked to have seen the accounts from year to year would have been to ascertain whether the expense has gone on increasing?—Yes, it has gradually.

2536. Gradually every year?—Yes.

2537. Would not the inference from that be, that the Government cannot keep so good a check and control as the local authorities can?—We had no means of having a thorough check over the bills of costs.

2538. *Chairman.*] But supposing a system of Government officers had been established, do you think a more effectual check might have been introduced?—I think so, certainly; but I would have them local, and paid by salary.

2539. In your opinion then, is a great deal of money now spent, which might be saved, in consequence of a public prosecutor?—Entirely so. I believe a great many prosecutions are commenced which should never be commenced, for the purpose of making bills of costs, because there is nobody there to check it; and I believe also that a number of unnecessary witnesses are called, and they are paid beyond their rank in life. We frequently found, on the Northern circuit, till Sir John Bayley, the clerk of assize, inquired into it, that in the depositions before the magistrates a labourer was a witness; when it came to the assizes, he was called a gentleman, and a guinea was charged instead of half-a-crown.

2540. Whose fault was that?—It was the fault of the attorney for the prosecution. Then, in the mileage, we are cheated abominably. The clerk of assize is only a certain number of days at each county town; the attorneys take good care not to bring in their bills of costs for prosecutions as fast as the cases are ended, but they keep them till the last day, and the consequence is, that the clerk of assize has 50 or 60, or 100 bills to tax, and he must go on with the judge to the next town.

2541. Mr. *Walpole.*] He has no time?—No.

2542. Has the Treasury no power of remedying that?—We have tried all we can by writing letters, but he says, "I have no time to do it." The last few years Mr. Wilkin has been down, and gone to several towns and helped the clerk of assize; we have also sent down other gentlemen. Sir John Bayley has reduced the expenditure in Yorkshire from 58 *l.* a case to 24 *l.*

2543. That is by taxing off particular items?—Yes; and getting the attorneys into the general custom of bringing in moderate bills of costs, because they are always afraid that he will be there.

2544. *Chairman.*] Honest bills of costs?—Yes.

2545. Do you believe, from your knowledge, that attorneys constantly bring witnesses who are not wanted?—I think they frequently do, and much more so since the local police have been established in various parts. They pass the things from one to the other; perhaps a constable takes an article, and he hands it to the inspector, and he hands it to the superintendent, and so it goes on; and instead of having one or two, we have five or six of them in five or six cases, and they try to charge in all the cases, but we only pay them in one case.

2546. How long have the Treasury exercised the control which you mention, of sending down officers to assist?—Only within the last two or three years, when we found the expense very heavy.

2547. Can you give us any idea of what has been the saving to the public service since that has been done; Mr. Wilson told me yesterday that he thought it was, at least, 18,000 *l.* a year; do you believe that to be an exaggeration?—No, I think it is more.

2548. Mr. *Walpole.*] You pay, of course, the officers whom you send down?—We pay them their expenses and give them 50 guineas; when Mr. Wilkin has gone for three or four weeks we have given him 50 guineas and paid him his expenses.

2549. *Chairman.*] Do you think that, if a system was established which had this

Mr. *R. Hankins.*

3 July 1855.

this one effect, amongst others, of appointing public officers paid by salary, who would be responsible to Government for misconduct of the kind which you have described, it would save considerable sums to the public?—I have no doubt of it.

2550. Do you think that that would be a cheaper system than that which is now in operation?—A great deal; and I should go further, and say that a local person, whether called Crown solicitor or whatever he might be termed, who should have the depositions, that he should go through the case, and declare whether it should be prosecuted at the public expense; and if he said it should not, then I would not say that the private prosecutor should not prosecute, because it would be taking away a great constitutional right from him, but that he should do it at his own expense and risk.

2551. And at the risk of an action for malicious prosecution?—Yes; and you would find it very soon stopped.

2552. Have you anything to do with the particular cases which the Home Office take up through the Treasury?—No; that is all done at the Home Office; we merely pay for them. The account from the counties is sent in half-yearly. As soon as the bill is taxed at the sessions by the clerk of the peace, and at the assizes by the clerk of assize, it is handed over, and we have the magistrates' certificate sent up; we depend upon the magistrates' certificate; we go through the list, and the clerk who does that comes to me and says, "Sir, here is a very large charge for a case of perjury," or murder sometimes, 200 *l.* or 300 *l.*; I immediately write down an official letter to the treasurer or the chairman of the quarter sessions, desiring to have the bill of costs sent up; and then I go through every item of it. I very frequently find that there ought to have been a great deal more taken off; but generally speaking it is in the witnesses. In some cases which are circumstantial they are obliged to have a great many witnesses, and many of them travelling a long distance. In cases of receiving stolen goods, and those sort of things, they pass perhaps through 20 or 30 hands; so that you cannot make a comparison of a case of larceny costing only 5 *l.* and another costing 20 *l.*; it may arise from the difficulty of proving the case.

2553. Mr. *Walpole.*] Can you remedy that in cases of circumstantial evidence; you must have the witnesses?—You must have the witnesses, but the local prosecutor would be able to say what witnesses were necessary, and would not pay beyond what were necessary.

2554. *Chairman.*] At present does not it often happen, that a policeman is the judge of what witnesses shall be called?—In almost all parts where the police are established, such as Hampshire and Essex, where there is a local police and an officer of the army or of the navy is at the head.

2555. In your opinion, are the police qualified to judge so well as a professional person?—I think not.

2556. Mr. *Walpole.*] As I understand you, you would only have the local prosecutor employed after the commitment?—I would have him a fixed officer on a salary.

2557. Would you have him get up the case before the commitment?—No, I would leave that as it is now. From the time that this public officer saw the depositions, he should then decide whether the case should go on or not; and if the private prosecutor chose to go on after the decision against him, he would go on at his own cost and risk. But there is another thing which must be done: at present, the fees to the magistrates' clerks and the justices' clerks vary in almost every county, because the Act of Parliament says that every court of quarter sessions shall frame a list of fees to be paid to their officers; that it shall be certified by two judges, and then sanctioned by the Secretary of State, and shall then become law; that has been done by every county, with scarcely any communication with each other, so that in almost every county they differ. I would have all that put right; they should be uniform throughout the country, unless, as would be better still, all those parties concerned in criminal proceedings were on fixed salaries, and there were no fees taken.

2558. *Chairman.*] Adverting to the fact that there are a great many attorneys, each with a separate case, attending the assizes or sessions, as it may be, would it not be a great saving of expense if those cases were managed by one attorney?—It would, certainly; but you would then be shutting out all the profession.

2559. With regard to expense, it would be a considerable saving?—No doubt it would, because at Liverpool, at this moment, they are paying an officer 300 *l.* a year

a year for being the prosecutor of all their cases; he gets them up, and does everything; but he shuts out all the other attorneys of the town.

2560. Do you think it worth while to encourage the growth of attorneys by a large public expenditure?—No; I think you should entrust it to your public prosecutor to decide what should go on, and to take care that the indictments were all right, and so on, and let the prosecutor employ his attorney and counsel; I would not interfere with that.

2561. I am talking as to expense?—No doubt, if you had a fixed man, the expense would be much less; so it would be if you had a fixed counsel.

2562. In the answer which you gave to Mr. Walpole just now, with regard to taking up the case from the time of commitment, your opinion was founded on the fact that you thought it an evil to put a stop to the employment of different attorneys?—It is almost impossible that one person in a county can attend to all the commitments; he can only know the case after commitment.

2563. Mr. *Walpole.*] Would there not be the same necessity for having a public officer to examine the case before commitment, and to see what the evidence was?—Then you must have one almost wherever there is a magistrate; at present that is done by the justices' clerk, who is some local attorney.

2564. *Chairman.*] It would be necessary, in that case, to have some one with the functions which are performed at every petty sessions?—Yes; in order to avoid that, I would lay down a scheme by which the justices' clerks should be paid uniform fees; they are charging all sorts of things.

2565. Speaking from your experience, what do you think the country might fairly be saved by a proper administration?—I have made some calculation, and I think we should save from 80,000*l.* to 100,000*l.* a year.

2566. Mr. *Walpole.*] If you did what?—If you had a public officer in each county, allowing the attorneys to go on with their cases, as they do now, up to the time of commitment, and then letting the public prosecutor take the matter up.

2567. He would become from that time the attorney for the prosecution?—Yes, and he should decide whether he would take it up or not, just the same as the Attorney-general in Ireland does.

2568. *Chairman.*] Even that, which would not be the most economical system, would save about 80,000*l.* a year, you think?—Yes, in this way. No attorney then who went before a committing justice would bring on a case which he ought not to bring on, because he would know that it would be rejected by the Crown solicitor; but there is now no intervening authority.

2569. Have you any doubt that that leads to a great many frivolous prosecutions?—No doubt of it; but he would not have the same interest on the other plan, because it would be stopped.

2570. As matters stand, have you any doubt that the direct interest which the magistrates' clerk has in multiplying prosecutions tends very much to the increase of expense?—I am sure of it.

2571. Your system would still leave the expense incurred by having a great number of attorneys performing the business, each with a separate case?—Yes, only that a part of my scheme would be to settle all their fees, and to give them so much a case.

2572. You would let private competition prevail in that respect?—Yes; I think it too much to say that you will have every case carried on by one or two counsel; you would affect the whole bar.

2573. Have you studied the Scotch system?—A little.

2574. Do you think that the independence of the Scotch bar is shaken by it?—I think the Scotch system an excellent one. In the plan which I propose I would have a practising solicitor, and not a barrister.

2575. Are you at all acquainted with the Irish system?—Very little.

2576. You do not know whether the Irish system is supposed to injure the independence of the Irish bar?—I never heard that it did.

2577. Have you considered the French system at all?—I never have.

2578. Mr. *W. Ewart.*] You would confine the office of this public officer of the country to conducting the case; you would leave the origination of it to the parties?—Yes.

2579. Do not you think that in that case a poor person might not have the means of prosecuting?—Then the Crown prosecutor would take it up for him.

2580. You would give him that power?—Yes, and to see that the indictment

Mr. *R. Hankins.*

3 July 1855.

was all right; but I would not deprive the attorney of the right of attending for the prosecutor, when the prosecutor could pay him.

2581. Supposing the private attorney failed to take up the case, would you give the public prosecutor an independent action, besides that of the attorney?—Yes.

2582. *Chairman.*] Can you give the Committee any papers, showing the expenses more in detail, or have you any papers to put in which would illustrate the subject; have you any taxed costs which would show the difference between the sum claimed and the sum allowed?—I can get copies of some of those papers. I have a statement, for the year 1853, of the number of prosecutions, with the average cost of each, distinguishing assizes from sessions in the different counties and divisions of counties in England and Wales. I will furnish to the Committee a copy of that document.

Vide Appendix.

2583. Mr. *Solicitor-General for Ireland.*] I suppose you can also furnish us with bills of costs as taxed by the magistrates, and since by your office?—Yes. I will give the Committee some that were taxed by Mr. Preston on the last Oxford Circuit.

2584. Can you also show the Committee some that were taxed when the Government paid only one-half, and some since they have paid the whole?—I am afraid I cannot do that. We do not have the bills themselves unless I find anything doubtful, and then I have the bill up.

2585. Are you in a condition to give the Committee the expenses of the Irish criminal prosecutions for the year 1854?—No, I am not.

2586. I do not mean the details at all, but the sum which the Treasury has paid for the prosecutions for the year ending 31st December 1854?—I can do that.

2587. You said something about a system pursued in Liverpool?—They have one attorney to conduct all the cases.

2588. Whom do you mean by "they"?—The corporation. Then they come to us for the expenses of all their prosecutions.

2589. What do they pay that attorney?—£. 300 a year.

2590. For conducting all their prosecutions?—Yes; and they get from the Treasury about 1,500 *l.*, because they charge all the fees in each prosecution; we have taken the opinion of the Attorney and Solicitor-general upon it, and the Crown officers say that we cannot help ourselves; that as the law now stands, they are entitled to these fees, and that their arrangement with that gentleman is nothing to us.

2591. Do you mean that the Corporation of Liverpool make a profit of public prosecutions?—Yes; of the difference between 1,500 *l.* and 300 *l.*; it goes into their corporate funds.

2592. *Chairman.*] That is what they save by the system of a public prosecutor?—Yes.

2593. Mr. *Solicitor-General for Ireland.*] By that system of a public prosecutor in Liverpool are the prosecutions conducted with efficiency?—Yes, with very great efficiency.

2594. Would you say that they are conducted with more efficiency there than if they were left to the ordinary system?—I am not prepared to say that, but they are conducted very efficiently.

2595. Mr. *W. Ewart.*] Has not this system been found so efficient in Liverpool, that they have introduced it at other places?—I understand it is so at Manchester.

2596. And Leeds?—Yes.

2597. *Chairman.*] By adopting the system of a public prosecutor at Liverpool, the corporation save 1,200 *l.* a year?—Yes.

2598. In your opinion, is not a great part of that saving owing to the fact that one attorney conducts the prosecutions, instead of having a vast number of attorneys, each with his separate prosecution?—Yes; you have 300 *l.*, instead of having a separate bill of costs in each case.

Martis, 10° *die Julii*, 1855.

MEMBERS PRESENT.

Mr. J. G. Phillimore.	Mr. Walpole.
Mr. Attorney-General.	Lord Stanley.
Mr. Solicitor-General for Ireland.	Mr. Miles.
Mr. William Ewart.	

JOHN GEORGE PHILLIMORE, Esq., IN THE CHAIR.

The Right Hon. *James Archibald Stuart Wortley*, a Member of The House; Examined.

Right Hon. *J. A. S. Wortley*, M.P.

10 July 1855.

2599. *Chairman.*] YOU are the Recorder of the City of London?—I am.

2600. You have held that office, how long?—Since the month of September 1850.

2601. Will you be good enough to tell the Committee whether you think any improvements might be made in the management of criminal prosecutions, so far as to make some person responsible for their management?—I think that a very desirable end; whether it can be effected or not I am not prepared positively to say. I can see the evil of the present system, but I do not myself, at present, know of any scheme which has been proposed to which I can give my entire assent.

2602. Will you state what the evils of the present system are, in your opinion?—I think they are various; I think that sometimes justice is defeated, and the guilty escape by reason of there being no person competent, and whose duty it is, to inquire after the evidence, to arrange it, and to see that it is brought before the court. I think also that from there being no person of that description charged with the responsibility of the prosecution, sometimes (I do not know that in happens frequently) justice is defeated by procuring the absence of witnesses, not so much upon the trial as before the grand jury. I am also cognizant of the fact, from my own experience, that from no person being required officially to interfere in the preparation of a case for prosecution, or being responsible for that prosecution, indictments and presentments by the grand jury are frequently made the means of oppression and extortion. All these I think are evils of the present system. Again, there is no doubt that from the absence of any person in court upon the trial charged with the prosecution of the cases, it frequently happens that on the part of the prosecution they are very imperfectly conducted, and necessarily so; whereas, on the other hand, sometimes you have very able counsel retained by the prisoner, who has a manifest advantage over the prosecutor himself, if he is unsupported, or even over any junior counsel to whom the depositions may be given upon the spur of the moment to conduct the case. Those Members of the Committee who are conversant with criminal courts know that the ablest counsel are those who practise for the defence, generally speaking; if they are retained for the prosecution, it is to keep them out of the hands of the defendant. In the court over which I preside, it is not the rule to employ counsel in all cases. At the West Riding Sessions, and in the county of York, upon the Northern Circuit, with which I was more conversant before I sat upon the bench at all, it was the rule to have counsel in every case; and there, as far as the conduct of the cases in court was concerned, I never saw any mischief, nor any evil in the system; the cases were generally distributed, and in some instances in rotation. At the Leeds Borough Sessions, I think they were distributed by the clerk of the peace in rotation; it was called "Soup," because each counsel in attendance had a spoonful in his turn. At the West Riding Sessions, a portion of the business was done in the same way, but in general, the briefs were delivered by the attorneys who were charged with the prosecutions to whom they pleased, and under that system, as far as the conduct of the case in court was concerned, I never saw any evil. In other places it was not so; and at the Central Criminal Court, where I have now most experience, it is not the custom to retain counsel in all cases, and the mere

Right Hon. *J. A. S. Wortley*, M.P.

10 July 1855.

depositions are handed to the judge at the moment of the trial; because, although a certain number of depositions are sent to me on the Saturday before the session, in order to enable me to charge the grand jury upon cases of importance, it is impossible to send the whole of them to me, nor should I have time to go through them with nothing but the Sunday intervening; a great many of them are not sent in until the Saturday from the police offices. The consequence is, that the judge is called upon to examine the witnesses, and to conduct the prosecutions; a most unseemly course always, in my opinion, and sometimes a very difficult one; because this has frequently happened to me: a bundle of depositions is handed up to me, and I find that it contains a history involving several offences; and there are five or six indictments; an intelligent officer of the court has looked into the depositions, and seen that there is ground for those five or six indictments; there is accordingly an indictment for felony, an indictment for embezzlement, and an indictment for conspiracy, and varying the offence in that way. The judge has upon the instant to decide upon which indictment he will call on the prisoner to answer in the first instance, and to pick his way through these voluminous depositions as he can.

2603. Mr. *Walpole.*] That happens to a great extent at the Central Criminal Court?—Yes, not unfrequently.

2604. Does it occur to a great extent at the assizes?—I am not very conversant with the criminal business on any except the Northern Circuit, and especially in Yorkshire; I had a very considerable criminal business there. It does not happen there, because counsel are there almost uniformly employed. Of course the simple cases are more frequent, but these complicated cases occur; there is hardly a session at the Old Bailey without a case of that description. Again, it very often happens that at the moment of trial the judge inquires, "Is there any counsel for the prosecution?" the answer is, "No." He is proceeding to take his course, and he is informed that counsel appears for the defence. It is perfectly inconsistent with the position of a judge that he should be exposed to conducting a prosecution with counsel against him. The practice which we have adopted at the Central Criminal Court is, in such circumstances, to call upon the officer of the court to give the depositions to some barrister in court. He generally takes the senior sitting at the table, who has not already had one case given to him under those circumstances. He is called upon on the instant, without any previous knowledge whatever; his reputation is not much at stake. He has had no opportunity of considering the case beforehand; he does it in the best way he can, and, generally speaking, at a great disadvantage, and often with a very clever counsel against him, who has had that previous opportunity. Still, upon the whole, I do not say that justice is to a great extent defeated; but from those circumstances it is interfered with to a certain degree.

2605. *Chairman.*] With regard to expenditure, perhaps you have cast your eye over my bill; do you think that it would add very much to the present expenditure in criminal prosecutions, supposing there was no other objection to it?—I have read the bill of the Chairman, but have only taken a very superficial view of it; and taking that view, it appears to involve at once a very large outlay in salaries, because, as I understand it, there is to be a double set of public prosecutors; one set who are to be barristers, and another set of public prosecutors to prepare the cases, in the shape of attorneys. They must all be salaried, and, if they are to perform these duties, they must be good men, and have high salaries.

2606. Fixed salaries?—Yes; and therefore there must be many districts in England in which to do that satisfactorily it must involve, in the first instance, great expense. I do not see how it can lessen the number of prosecutions, or cheapen the mode of conducting the business.

2607. At present, in a sessions town there are 10 or 20 cases, with an attorney in each case. By my Bill there would be one attorney for all those?—I am not quite aware of what you mean by expense; I am speaking of the expense to the public purse only, and that I think would not be diminished.

2608. I mean the sum now paid by the Treasury in prosecutions?—I was looking at it with a view to expense upon the public purse.

2609. Are you aware of the amount paid by the Treasury in criminal prosecutions?—I am not aware of the amount; I know it is considerable.

2610. Then again, in your opinion, might not considerable sums be saved if a person was responsible for bringing the proper witnesses; are not there many unnecessary

Right Hon. *J. A. S. Wortley*, M.P.

10 July 1855.

unnecessary witnesses now brought?—I think a good deal of expense might be saved in that respect; it frequently happens, sometimes without any apparent motive, but sometimes from a manifest motive on the part of those who get up the case, and particularly the police, that they bring half a dozen people where one would do. One man picks up the hat, and another man picks up the stick, and a third man something else, and they produce them one after the other on the trial, whereas they might all have been given to one man upon the spot, and one witness would do.

2611. Can you say whether the present want of a responsible prosecutor has not a tendency to fling the conduct of criminal prosecutions into the hands of low practitioners. I am not speaking of members of our branch of the profession, of course; does not it put great power in the hands of low attorneys?—It may do so to some extent; I have not myself seen much evil arising from that. Speaking generally, the prosecuting attorneys with whom I have more frequently come in contact in the Central Criminal Court are a respectable class.

2612. But at the sessions and assizes at York, for instance, how is it?—They certainly are as a body a very inferior class to the attorneys who practise in the civil court.

2613. And must they not have, under the present system, very considerable power?—Yes, I suppose they have.

2614. Mr. *Miles.*] In Yorkshire were attorneys employed, as well as counsel, in conducting the prosecutions at sessions?—No, not a separate attorney in each case; when I first joined the West Riding Sessions, a very considerable number of the briefs for the prosecution, in all the minor felonies, were prepared by the solicitor to the Riding, and they used to be distributed, in the way I have mentioned, like soup. At Leeds it was the town clerk. These officers were supposed to be responsible for the preparation of the prosecutions; but, in point of fact, they just did nothing but write on the back of the depositions "Mr. So-and-so, one guinea," and hand them over, and they did not hold themselves responsible in any degree for getting up the case.

2615. In fact it was merely a copy of the depositions?—Nothing but a copy of the depositions.

2616. Did they charge any fee for that?—I fancy they did. There was an allowance to them. It was considered a good appointment. There was a fee to the counsel and a fee to the clerk, as well as an allowance, the attorney preparing the brief.

2617. Having looked over this Bill, and knowing the description of persons who fill the office of magistrates' clerk in Yorkshire, and generally speaking throughout the country, namely, highly respectable attorneys, do you see any difficulty at all in forming the district agents of that set of men, and paying them by salary instead of fees?—I set out by saying that I never had yet seen any scheme to which I was prepared to give my unqualified assent; but the only scheme which ever appeared to me at all practicable would include that as one of its parts. I think, if you insisted upon the magistrates' clerks being always attorneys, and appointed by those who would be sure to appoint able men, you might have a class of men paid by salary and not by fees, who would become very useful and very efficient district agents, for the purpose of getting up the prosecutions. If they were paid by salaries they would have no temptation to multiply the cases. On the other hand, they would be well acquainted with the circumstances and characters of the parties in that neighbourhood, and they would have the motive of doing their duty to the satisfaction of those by whom they were appointed, and under whose eye they did that duty, to do it well and to get up the case carefully. Therefore I think they might be made extremely useful. I further think, that if the present clerks of the peace were also appointed in a manner to insure their being efficient instruments, which I do not think they are at present, they have not any such overwhelming duties as would make it at all impossible for them to be in the next grade; that is, that the district agent should be responsible to the clerk of the peace for getting up the case, and should do it under his supervision. That seems to me to be the groundwork of a system which might work with effect.

2618. What alterations would you make as to the appointment of the clerk of the peace?—The difficulty is this, at present the patronage is in the Lord Lieutenant; of course there is a difficulty in taking it away; again, there is another difficulty in transferring it to the Crown. I have myself no doubt that the best

Right Hon. *J. A. S. Wortley*, M.P.

10 July 1855.

men would be appointed under the responsibility of the Crown, but there is a difficulty about it; perhaps the patronage might be left where it is, but subject to the consent of the Crown; it is so done in other offices; it might also be limited to barristers of a certain standing, and solicitors of a certain standing; I would not exclude solicitors, for I have in my mind two clerks of the peace in different parts of the country who are as able men as any I know, one is Mr. John Clark, the clerk of the peace at the Central Criminal Court, a most intelligent, judicious, and able man; again, there is another gentleman, who I dare say may be known to some Members of the Committee, Mr. Leeman, who is the clerk of the peace for the East Riding of Yorkshire; a more able man for that sort of business you could not possibly select. I would not therefore confine it to barristers. I think if you had a very superior man for your clerk of the peace he might supervise a whole county, and judge whether the cases should be prosecuted or not, subject to an appeal to the Attorney-general, in case of difficulty. When I say the Attorney-general, I mean the "devil" of the Attorney-general, as we say in familiar terms, a branch of his office, under his control, and for which he would be responsible.

2619. Supposing this alteration was made in the appointment of the clerk of the peace which you suggest, would you on a given trial allow him, through the Attorney-general, to enter a *nolle prosequi* before the case came to the indictment office?—I am inclined to think that I would; the scheme which has now been suggested by the Honourable Member, is one which has this advantage, that I think it is perfectly consonant with the present system, and perfectly constitutional, because although the Attorney-general is not the public prosecutor in the ordinary sense in all cases, and is in point of fact only the public prosecutor in cases of importance prosecuted *ex officio*, or at the special instance of the Crown, yet to some extent he stands in that position, because he has now the power of entering a *nolle prosequi* at certain stages, and I think it might be desirable to give him the power of entering a *nolle prosequi* as is suggested. Still there is this difficulty; many persons object to taking away the rights of the subjects of this kingdom to go before the grand jury without the interference of the Attorney-general, or any other person.

2620. *Chairman.*] It would be a very wholesome check upon the public prosecutor, because if he had not prosecuted, and a bill was nevertheless found, it would be a proof that he had neglected his duty?—It might be so; but still I am of opinion that that power of going before the grand jury is open to the grossest possible abuse; only the last session the officer of my court informed me that he had received an application from a person to draw an indictment for him for a conspiracy, against a most respectable firm of solicitors in London; that that person had six months before preferred a similar indictment which he had prepared for him at his request against those same men, and that it had been thrown out, and thrown out under these circumstances; information was conveyed to the officer that the prosecutor had himself been before convicted for instituting a prosecution for the purpose of extortion, and it was suggested to the foreman of the grand jury to ask him that question, and he admitted that he had been convicted of preferring an indictment for the purposes of extortion, and thereupon the grand jury had thrown out the bill; but this same man came again six months afterwards, when he was in hopes that the matter would have been forgotten, for a similar bill against the same parties; what became of it I do not know; I suppose it was thrown out, or he did not proceed. I directed the officer of the court under those circumstances not to prepare the bill for him, but that he must come with his own bill, if at all.

2621. Mr. *Miles.*] Are those cases frequent in London?—Yes.

2622. They are much more frequent in London than in the country, are not they?—I believe so, because they are a sharper class; I have put a check myself upon it in this way: it used in the Central Criminal Court to be the practice immediately upon the finding of a bill by the grand jury, to issue a warrant for the apprehension of the party as a matter of course, and I found that the consequence was that a bill was frequently preferred and found upon the evidence of the prosecutor; a warrant was issued, and the man was taken from behind his counter, or from his home and family, without the slightest previous notice, and put under duress and brought to terms. That was done in two or three instances where there had been a cause in the county court, and the plaintiff or the defendant having been defeated came to the Central Criminal Court with a bill for

Right Hon. *J. A. S. Wortley*, M. P.

10 July 1855.

for perjury, and when it was found on his own evidence, threatened that if the other party did not pay the money he would have him arrested.

2623. Mr. *Walpole.*] What check did you put upon that?—I have ordered that no such warrant shall issue as a matter of course, and I require an affidavit in all cases before issuing a warrant that they have reason to apprehend that the defendant will abscond.

2624. Supposing you leave to private individuals the power of prosecuting, while you confer also upon the clerk of the peace, according to your plan, the power, under the sanction of the Attorney-general of entering a *nolle prosequi*, may you not put such a check, by means of affidavit and otherwise, upon the private individuals, as to prevent those extortionate indictments?—I think you may; my object has been to a great extent defeated, because I find that there is an Act of Parliament which enables the parties immediately upon the bill being found, to apply to a judge at chambers for a warrant, who has no discretion given him, and they have found that out, and some of them act upon it.

2625. *Chairman.*] Have you considered the propriety of allowing prisoners the expenses of their witnesses, where they are honest witnesses, and speak to material facts?—That appears to me to be a very difficult question; I am quite sure it is desirable, if possible, to do something in that direction. I think something might be done; I think you might possibly give a power to the committing magistrate to return the depositions of any witnesses whom the defendant should wish to be examined before him, if he should think them to be material witnesses, and that then the expenses might be paid of their attendance at the assizes, subject, of course, to an order from the court, if they appeared perjured or behaved themselves ill, to deprive them of their expenses: I think that, under those circumstances, if the committing magistrate, after hearing and examining those witnesses, thought their evidence material, the country should pay for their attendance. I think, also, that even where witnesses had not been so tendered to the committing magistrate, but had been discovered since committal, and attended the court, then, upon application to the judge trying the case, he should have the power of ordering their expenses, if he thought their evidence material. I think to that extent you might carry it; to say that they should all be paid who are called on the part of the defence, I think would be mischievous.

2626. The proposal was, that it should be left to the discretion of the presiding judge?—If it were left altogether to the discretion of the presiding judge it would lead to a great discussion in the majority of cases; in many cases there are no witnesses, and never could be; but I think it might save a great deal of time if the committing magistrate examined them. The committing magistrate is very much in the habit now, of saying, "Whatever your witnesses may say I will not hear them; I have made up my mind, and shall commit you." I think the prisoner might be permitted to say, "Allow me to bring my witnesses." The person conducting the prosecution would then know what the defence was, and whether it was an honest defence; it would prevent a false defence at the trial, of which nobody had had notice.

2627. No doubt it has happened to you to hear a prisoner say, "I could have had witnesses, but could not afford to bring them"?—Frequently; and we have able counsel dwelling upon that point, and affecting the jury by it, and not without justice.

2628. There are some cases where it is true?—Perfectly true.

2629. Is not that a great reproach to the administration of justice?—I am obliged myself to tell the jury that they cannot expect a man in that position to bring witnesses from a great distance; that, in the absence of the evidence, they cannot act entirely upon his statement; but that if they think it probable, they may take it into account; they must not expect him to prove all he states.

2630. Have you turned your attention to the French system at all?—I am ashamed to say I do not know it.

2631. Or the Scotch system?—I have a greneal knowledge of the Scotch system.

2632. Is there any modification of that system which might be applied, in your opinion, to England?—I think the suggestion which I alluded to in answer to the question of the Honourable Member for Somerset is very much of that description. The lord advocate, the advocate-depute, and the procurator-fiscal

Right Hon. *J. A. S. Wortley*, M.P.

10 July 1855.

are just the attorney-general or his deputy, and the clerk of the peace, and the district prosecutor.

2633. Is is not rather more than that, because in that case the Crown always appoints the counsel, who conducts the prosecution in court?—That I think very doubtful. I do not think that is necessary. I think if the clerk of the peace for instance, and the district agents were left at liberty upon that subject, they would make a very good selection of counsel. You must either do that, or do what is done in respect of the Mint cases, and leave it to the Attorney-general to designate some young men at the Bar, to whom the prosecutions should be given. I should object to regular appointments, I think.

2634. Mr. *Walpole.*] Does any evil really arise from leaving the choice of the Bar as open as possible, or would it arise under the system which you are shadowing forth?—I think not.

2635. Would it not be very much better to leave it open?—That is my own opinion. I think salaried officers would be the objects of jealousy; they would become careless. If you want good men, you must give them a large salary; they would be very comfortable with their 1,500 *l.* a year, or whatever it might be, if they were not ambitious; they would live in the country, and would not try for anything better.

2636. Mr. *Miles.*] Is not the quarter sessions a very admirable school for the Bar?—Very.

2637. Have not the majority of our best lawyers started in that way?—No doubt the majority of our best *nisi prius* lawyers have done so.

2638. *Chairman.*] Surely you must have seen that it very often happens that the quarter sessions, so far from being a very good school, is a very bad school; that it tends to encourage very bad habits?—Perhaps I may be under prejudice, with reference to the sessions which I attended, of which it was the boast that it was "The Sessions;" and certainly when I first joined it, it was the best sessions. There was a great deal of business, and there were very able men there, and a Bar of about 30 counsel. I have heard that in the West of England, I do not say in Somersetshire, but in Cornwall, and in some of the distant counties, there were no counsel in attendance, or perhaps only one, who appears for the prosecution, and that in point of fact there is no Bar.

2639. Have you ever heard that the Stafford Sessions is attended by competent persons?—I have heard that they have a very able chairman there.

2640. They had a very able chairman there, certainly?—I should imagine from what I have heard and know of the circuit, and from what I used to know of the juniors of that circuit, that there must be a very good Bar there. I do not know.

2641. You agreed in the observation which I made, that the tendency of the present system was sometimes rather to fling the criminal business into the hands of low practitioners?—Yes. I have not a very strong opinion about that; I do not think the superior attorneys would ever find it worth their while.

2642. Supposing that to be the case, would it not have a bad effect on the independence of the Bar; that they would be dependent upon these low attorneys for opportunities of distinction?—You mean, supposing it not to be in the hands of district agents, but left as it is now?

2643. Yes.—There is no doubt that the Bar are to a certain extent at this moment too much dependent upon a very low class of practitioners; that is one of the evils of the present system, there is no doubt; at the same time, with rare exceptions, I think the spirit of the Bar is such that they make their way honourably, in spite of that difficulty.

2644. Are you acquainted with the Irish system?—I am not; and speaking in the presence of the Irish Solicitor-general I do not venture to make any observations upon it; but I have always understood that there the Attorney-general is really the person responsible for all the prosecutions, and that he conducts them, not by himself, but through the Crown agents, he only interfering upon great occasions, which are worthy of his interference. That is, in point of fact, very analogous also to the scheme suggested by the Honourable Member for Somersetshire.

2645. Then you would recommend some system nearly approaching to the Irish system, supposing that to be a correct description of it?—I have stated the only thing which I can suggest; I am not prepared to say that that system should be adopted; it requires great consideration. The scheme which I have shadowed

shadowed forth is analogous to both the Scotch and Irish systems, and is constitutional, considered with regard to our own system.

2646. Do you not know, as a matter of history, that the splendour of the French Bar was very much owing to the very system which you object to, of prosecutors being appointed by the Crown to conduct prosecutions?—I do not know that; I have no doubt that you will have distinguished men brought up under any system.

2647. It did not have a pernicious effect upon the French Bar, but the contrary was the case?—We all of us have heard of cases of men who have been very much pushed by the Crown, and have been under high patronage, and become great men in that way; on the other hand, we have instances of men who have been left to their own resources, who have become great men.

2648. Do you think that that system would prevent men being left to their own resources; would there not still be an opportunity for young men to distinguish themselves, although not by conducting criminal prosecutions?—No doubt they would apply themselves to the conduct of defences; there would be plenty of opportunity for distinction; I am not afraid of that.

2649. Mr. *Miles.*] From your experience in Yorkshire and in the Central Criminal Court, would you recommend that in all criminal prosecutions throughout the country counsel should invariably be employed?—I have no hesitation in saying, that it is very bad economy if they are not so; and that unless somebody is appointed to conduct the prosecutions, you cannot have the business properly done. The difficulty has been with the ratepayers; it is not so now; therefore I do not know why the practice should not be altered.

2650. If benches of magistrates do not insist upon counsel being in every case employed owing to economy, you consider that a false economy?—I do. We have at the Central Criminal Court instances of certain cases taken up by the Crown, not by the Attorney-general, but by the solicitor of the Treasury. Those are extremely well conducted. We have certain prosecutions taken up by the Society of Bankers, by very eminent solicitors, who take them as a matter of course. All forgeries of bank notes and commercial forgeries of that sort, they are extremely well conducted. The Court of Aldermen, the city magistrates, have the power of ordering prosecutions to be taken up by the City solicitor. Those, again, are conducted with the greatest ability by the solicitor, and by the counsel who are in the habit of being employed by the Corporation; the difference is most marked.

2651. Mr. *Solicitor-General for Ireland.*] I suppose those prosecutions are also conducted with fairness?—Yes, that is another great element of advantage.

2652. Has the result of your experience been, to lead you to think that in private hands, prosecutions are not always conducted with fairness, and with a desire to get at the truth, and that only?—That is no doubt the result of my experience, that prosecutions are very often very vindictive, and not unnaturally so; there has been a grave offence committed perhaps, and great indignation excited, and the barrister who holds a brief for a private prosecutor of that description, is sometimes put under very great pressure to take a course which he would not otherwise take; for instance, in proceeding with several indictments after a defeat upon former ones, and pressing the thing beyond what is just and fair.

2653. The object being to secure a conviction?—Yes; whereas in the cases to which I have alluded, they act upon public principle, and evidently from no other motive.

2654. *Chairman.*] In your opinion, would there not be an advantage in this state of things, in giving the prosecuting counsel the dignity of a minister of justice; supposing for instance, that his reputation was no further concerned than the exact investigation of truth, without any motive to secure a conviction, his object being the simple discovery of truth, and he holding the rank more of a minister of justice to assist the judge, than of a counsel?—There is no doubt that if you had a very good man in that position, that would be the effect of his position; but I do not believe it is necessary, and I am jealous, I confess, of the inroad which it would be upon the honourable competition of the Bar.

2655. With reference to the intersts of the Bar, you do not approve of it?—No; and when I say with reference to the interests of the Bar, I think it is a national interest. I think it is of immense importance to have a school for barristers.

Right Hon. *J. A. S. Wortley*, M.P.

10 July 1855.

2656. Did not that honourable competition exist in the time of Charles the Second?—I cannot compete with the Chairman in the history either of my own profession or of the country. I think that the object which the Chairman seems to have in view of putting the prosecuting counsel in such a position as to be regarded rather as a minister of justice merely, and having no motive in the prosecution, would be effected if you had the prosecutions prepared by respectable and able men, who would be the agents for putting the prosecutions in good hands. The counsel conducting the prosecution would then be not the representative of the private prosecutor, but the representative of the public officer, who could have no motive but the public good.

2657. Do you not think that he would be more independent if paid by salary than if left to the choice of the district agent?—I am only afraid that in some cases the holder of it would be careless.

2658. Mr. *W. Ewart.*] Do you think that the danger of appointing a public prosecutor would be the patronage which it would give to the Crown?—My political principles do not make me so jealous of the Crown as some persons would be; but in these times I think it a difficult thing to throw into the hands of the Government such an amount of patronage as that would be, and I think it very doubtful whether Parliament would consent to it.

2659. If I rightly collect the proposed remedy from you, you would remedy that disadvantage by having some of the inferior agents appointed by the local authorities, or continued to be so?—No; I rather meant to intimate, that if I were to begin at the beginning, I should say they ought to be appointed by the Crown; by the responsible Minister; but finding the appointment of the clerks of the peace in the Lords Lieutenant of the counties, of course there would be some difficulty in taking all those appointments from them. It would, no doubt, increase the jealousy of the patronage of the Crown. I thought that, possibly, it might be reconciled by leaving that appointment of clerk of the peace where it is, subject to the approval of the Crown.

2660. With regard to the Bar, you think it better to have it quite open, and not to have any ministerial officer appointed by the Crown, as in Ireland and as in Scotland?—Upon the whole, I think so; certainly it would be better with regard to large assizes and sessions, where there is ample attendance of the Bar. There are some assizes, as well as some sessions, where, I believe, the attendance is so scanty, that it might be desirable to appoint some counsel. I do not, however, give a definitive opinion upon that point.

2661. Mr. *Miles.*] If you gave a brief in every criminal prosecution, the Bar would attend, would they not?—I think they would.

2662. Mr. *Attorney-General.*] Would you give a brief in every criminal prosecution?—I do not say that in all cases it is necessary to employ counsel, nor that there would be a positive advantage in every case, because there are a great number of cases so simple that they are disposed of in a few words; but I think that, upon the whole, it is better that there should be counsel in some way in all cases, than that there should be cases left which are of more or less complexity, in which either the judge is called upon to conduct the examinations, or counsel is called upon to conduct them by the direction of the judge, without any previous knowledge of the case whatever.

2663. The course which I have commonly adopted (I do not know whether it would meet with your concurrence) is this: I read over all the depositions before I go into court, and if I see that there are any of them which present any difficulty, I hand them over to the clerk of the peace, with a request to have counsel. I have a very intelligent clerk of the peace at Bristol, and he helps me in it. He reads over the depositions himself before they come to me, and points out to me those which are of a more complicated character, and he generally sends me a note stating, "I think these are cases in which there should be counsel." I then look the depositions through, and see whether I concur with him or not?—That no doubt mitigates the evil to a great extent.

2664. Mr. *Miles.*] But there is no power in the counties to do that; in fact, the depositions are very often brought in by the magistrate's clerk at the last period, and there is no opportunity of looking over them; is not that the case in all counties?—I believe it is, and it is the case in my court; some of the depositions come in during the session, and after I have charged the grand jury. All the depositions which I have an opportunity of seeing are the depositions in the principal and heaviest cases, which are sent to me on the Saturday night before the

Right Hon. C. A. S. Worsley, M.P.

10 July 1855.

the commencement of the session, to enable me to charge the grand jury on the Monday morning; but I have never read, nor do I think I could give the time to read all the depositions beforehand, and say in what cases counsel should be employed, nor have I any power to give that direction; I exercise the power, and so do all the judges (it has never been disputed, but if it were disputed I do not think there is any right) of handing down the depositions to counsel to conduct the prosecution where counsel is retained for the defence; it has never been disputed, and the expense has been allowed.

2665. The cases of London and Bristol, which are local jurisdictions, cannot be brought as analogous to county jurisdictions?—They may be analogous, but they are not identical, certainly. If there was any officer who had the power of sitting the cases beforehand, and saying which ought to have counsel, I think it might be sufficient without having counsel in every case; but that involves a new machinery. If you had a district agent in the person of a salaried magistrate's clerk at every sessions he might do that if he was a judicious person; he would have no interest in employing counsel of course.

2666. *Chairman.*] Without any invidious remark it must have often happened to you to see a sharp collision between the prosecuting and the defending counsel?—No doubt.

2667. Do not you think that the appointment of a public prosecutor would diminish that state of things, if the public prosecutor were properly appointed?—I think not; it would give rise to constant observations, "Here is a party appointed by the Crown, a strong party and I am a weak one; the Crown is oppressing; the public prosecutor is oppressing;" I do not know whether that is ever the argument in Ireland, but it might be urged.

2668. Such topics might be sometimes used in political trials, but in ordinary cases where there was no reputation to be gained, and no emolument to be gained, and where the prosecuting attorney could have no fear of losing his business, do not you think that an educated man would prefer assisting the Judge to a desire for that sort of distinction?—We find where a Queen's Counsel is employed in the case of a Railway Company, that that argument is always used, that it is power against weakness.

2669. You do not think then that it would mitigate the evil?—I doubt it very much.

2670. Captain Hatton, who is at the head of the constabulary at Stafford, and is a very intelligent officer, told us that he had been obliged to interfere to prevent the indecent scramble between attorneys for prosecutions, and that there were a great number of that class of practitioners at Stafford; and he then proceeded to give evidence showing the vast number of those cases at Stafford. You would consider such a state of things a great injury to the Bar?—No doubt; not only to the Bar but to the public.

2671. And to the Bar employed by those practitioners?—It is much pleasanter to them, and better to be employed by a higher class of practitioners, but if the Bar had a proper spirit it would not affect them. It has a tendency to encourage disreputable men to go to the Bar, from the knowledge that they will be assisted by that class of practitioners.

2672. Do you agree with Captain Hatton in thinking it a great evil that policemen should have the management of prosecutions in any way?—I do, I think that is one of the leading evils of the present state of things; of necessity, and without any blame, a policeman is very often obliged to be the getter up of the prosecution, in point of fact, and he is generally a witness to a great many material facts; he is cross-examined as to whether he has not got up the prosecution, and he says, "No, it is not my business to get up the prosecution;" he is asked, "Have you not seen this witness and that witness?" and he is obliged to confess that he has; there is nobody else to do it.

2673. Mr. *Solicitor-General for Ireland.*] It produces a tendency also for him to shape his evidence from what he has seen of the other witnesses?—Yes; no doubt in some cases there is a tendency to combine with the other witnesses, and to make the evidence consistent.

2674. *Chairman.*] Captain Hatton told us also, that the average expense of prosecuting the prisoners at Stafford, was 7 *l.* a head; does not it appear to you that that might be materially diminished by adopting a judicious system of prosecution?—I believe it might, but one of the great difficulties in diminishing the expenses, is the grand jury system, as far as the court with which I am most

Right Hon. *C. A. S. Wortley*, M. P.

10 July 1855.

conversant is concerned; I do not know how the matter is managed exactly at the Middlesex Sessions, but Mr. Serjeant Adams always makes a great boast (I do not mean it in any invidious sense, but a just boast) of the extreme cheapness with which cases are conducted in his court; by some arrangement, and frequent sittings, he is able to appoint particular cases for particular days; we are unable to do that. What you have stated seems to me a high average, but those averages are very deceitful. With regard to the Middlesex Sessions, I have observed in the newspapers frequently, under the authority of the chairman of those sessions, statements of the average expense of prosecutions as compared with those at assizes, or at the Central Criminal Court, and very much to the advantage of the sessions; but then this is forgotten, that at the assizes, or at the Central Criminal Court, the cases are the great and most important cases, and sometimes it occurs that one case raises the average by 2 *l.* or 3 *l.* each case. In the experience which I have had in my time, I have had a case where officers have been sent to Australia, and the whole prosecution has cost between 600 *l.* and 700 *l.*; that raises the average perhaps of the 100 cases tried at that session by 5 *l.* or 7 *l.* each.

Henry George Horn, Esq., called in; and Examined.

H. G. Horn, Esq.

2675. *Chairman.*] WHAT are you?—Clerk of Arraigns on the Western Circuit.

2676. How long have you held that situation?—Since the year 1820.

2677. Have you been constantly engaged in that capacity since that time?—With the exception of about six years, when I was absent from the circuit in consequence of other duties.

2678. What were you when you were so appointed?—I was signer of the writs in the Court of Queen's Bench; I may also add, that I am taxing officer at Liverpool, and at Lancaster.

2679. You are taxing officer for the criminal briefs?—Yes.

2680. You have had abundant opportunity of witnessing the proceedings in the administration of criminal justice?—Yes, for the last 35 years.

2681. Will you state whether in your opinion, there are any defects which require alteration?—I should say that a paid officer to conduct the prosecutions instead of attorneys, would be an advantage.

2682. What are the evils which strike you in the present administration of justice?—The evils are, that most certainly, at present, attorneys are very anxious to get prosecutions, particularly in the north of England, where the remuneration is high; and I think that on the Western Circuit, where the remuneration is so low that an attorney is only allowed one guinea in ordinary cases, it throws them into the hands of low and improper persons.

2683. Respectable solicitors will not take the trouble of conducting them?—Some respectable solicitors do; but I suppose that is because they are clerks to the magistrates, perhaps it is at the instance of the magistrates that they do so; and probably it may be that the prosecutor is in such a position as to be able to pay them a bill of costs in addition to the county allowance.

2684. Supposing the prosecutor not to be in such a condition, the tendency would be to fling the cases into the hands of an inferior set of practitioners?—Certainly.

2685. Does it often happen that it would be requisite, in order to secure the attendance of a respectable solicitor, that the prosecutor should pay something more than the public would allow?—A solicitor, by the arrangement in many counties, cannot be properly remunerated without it.

2686. Do you consider that a great evil; supposing, for instance, that a man without any money receives an injury, he can only depend upon what the public allows?—Certainly.

2687. Then he will be necessarily driven to an inferior class of solicitors?—Yes.

2688. With regard to the expense, do you think that such an appointment as you have mentioned would be attended with considerable expense?—I prepared, as long as 10 years ago, a scale, with a view to a question of this sort, namely, appointing district agents to conduct cases. It was given into the hands of Mr. Hankins, of the Treasury, eight years ago; and if the Committee will

allow

allow me, I will hand it in to save trouble. I think an efficient arrangement might be accomplished for about 40,000 *l.* a year in salaries. This is a detailed account of every county, and how many persons would be required in each, making, altogether, 60 appointments. Sixty is the number of the county court districts, and I think if a county court can range over a district, it would not be too large for a criminal prosecutor to attend to.

H. G. Horne, Esq.

10 July 1855.

[*The following Paper was delivered in by the Witness:*]

From the Criminal Returns in 1846.	Prisoners.	Cases.	Proposed	
			Number of Appointments.	Amount of Salaries.
County:				£. s. d.
Bedford	185	150	1	300 – –
Berks	250	200	1	400 – –
Bucks	283	230	1	460 – –
Cambridge	276	220	1	440 – –
Cheshire	767	614	2	1,228 – –
Cornwall	280	230	1	460 – –
Cumberland	147	120	1	240 – –
Derby	277	220	1	440 – –
Devon	721	600	2	1,200 – –
Dorset	225	180	1	360 – –
Durham	249	200	1	400 – –
Essex	602	500	1	1,000 – –
Gloucester	884	710	2	1,420 – –
Hereford	158	125	1	250 – –
Hertford	243	200	1	400 – –
Huntingdon	81	65	1	130 – –
Kent	815	650	2	1,300 – –
Lancaster	3,072	2,600	5	5,200 – –
Leicester	358	280	1	560 – –
Lincoln	419	340	1	680 – –
London and Middlesex	4,641	3,650	7	7,300 – –
Monmouth	217	180	1	360 – –
Norfolk	720	480	1	960 – –
Northampton	270	220	1	440 – –
Northumberland	169	135	1	270 – –
Nottingham	286	230	1	460 – –
Oxford	228	190	1	380 – –
Rutland	26	20	1	40 – –
Salop	227	182	1	364 – –
Somerset	701	560	2	1,120 – –
Southampton	608	500	1	1,000 – –
Stafford	851	680	2	1,360 – –
Suffolk	471	380	1	760 – –
Surrey	958	755	2	1,530 – –
Sussex	468	375	1	750 – –
Warwick	799	640	2	1,280 – –
Westmoreland	74	70	1	140 – –
Wilts	436	350	1	700 – –
Worcester	535	430	1	860 – –
Yorkshire	1,560	1,250	3	2,500 – –
			60	£. 39,442 – –

2689. Mr. *Attorney-General.*] You put the amount at 40,000 *l.* a year?—Yes, in round numbers.

2690. What, in your opinion, is the cost now of those prosecutions, as regards the remuneration to the professional parties?—The cost now is more than 40,000 *l.*, and I arrive at it in this way: the total amount at present paid to solicitors for prosecutions is 2 *l.* 3 *s.* 2 *d.* in each case, and I take the number of cases prosecuted in the year, in England and Wales, to be about 20,000.

2691. You mean prosecuted by attorneys?—Yes.

2692. Not the total number of prosecutions?—Yes, the total number of prosecutions.

2693. But it is not every case of a prosecution in which an attorney is employed?—No; but on the Northern Circuit you must take into account that the attorney

H. G. Horn, Esq.

10 July 1855.

attorney gets something like 8 *l.* out of a prosecution, so that it makes an average upon the whole number of 2 *l.* 3 *s.* 2 *d.*

2694. The result then of your experience and calculations is, that there would be very little difference in the point of expense between the system of district agents and the present system, whereas there would be a great increase of efficiency?—I think so. If you will allow me, I will put it in another way: if, instead of having only 60 officers, you felt disposed to appoint each clerk to the magistrates in a magisterial district as public prosecutor for that district, it would involve the appointment of about 519 persons, that being the number of magisterial districts. Then, perhaps, a difficulty would arise how you could afford, out of the 40,000 *l.*, to pay each of them a sufficient salary, for it only gives 80 *l.* a year to each. That is the only objection which I see to the magistrates' clerks of the different districts being public prosecutors.

2695. They are paid by fees of another sort?—Yes; but this calculation is made with a view of abolishing all fees, which, I presume, is the course about to be adopted or suggested, at all events.

2696. Mr. *Miles.*] Does your calculation take in the amount of fees which they receive in cases not criminal?—No; in criminal cases only.

2697. Then of course it would be fallacious, as far as that went?—I do not quite understand you.

2698. The clerks to the magistrates receive fees in other cases than criminal prosecutions?—Yes; it would give 80 *l.* a year for the fees which they receive in respect of criminal cases, without touching any other part of their remuneration.

2699. Supposing they receive nearly double that amount now, do not you think that they would be very willing to undertake it for 160 *l.* a year?—I should think they would be very glad to undertake the duties, receiving as much as they receive under the present system, because it would be a certain fixed payment, and not resting upon the fees, which, of course, are at present uncertain.

2700. Mr. *Attorney-General.*] You of course have been present a great deal at the trial of criminal cases; does it appear to you that, under the existing system, there is any degree of inefficiency in the mode in which prosecutions are brought into court?—Not in general; I should say but occasionally; and I should certainly say that I have witnessed many cases which, I think, ought not to have been brought into court, and which, I think, this system would obviate.

2701. *Chairman.*] And so much extra expense has been caused to the public?—Yes. I have also a document showing the present allowances to attorneys on the different circuits. On the Norfolk Circuit, it is 1 *l.* 9 *s.* 7 *d.* each case; on the Midland Circuit, 3 *l.* 1 *s.* 8 *d.*; on the Northern Circuit, 8 *l.* 2 *s.* 2 *d.*; on the Oxford Circuit, 3 *l.* 8 *s.* 10 *d.*; and on the Western Circuit, 1 *l.* 1 *s.* 5 *d.* The average of the five circuits gives 2 *l.* 18 *s.* 2 *d.* to each attorney. Then 30 sessions which I have taken average 1 *l.* 8 *s.* 2 *d.* each, which gives a general average upon the whole of 2 *l.* 3 *s.* 2 *d.* for each prosecution. The way in which I have calculated the salaries is by taking the number of prosecutions which there were in the year 1846, and which I have taken from the Statistical Returns of Government. That gives 2 *l.* a case as the remuneration to the clerk who would have to do the duty, or the solicitor, or the public prosecutor, calculated at a salary according to the number of cases in his district. I have made an estimate of the saving, supposing this principle should be carried out; and the view I take of it is this, that an official control over the prosecutions would probably lessen them by the number of 3,000. I take the year 1846 as the datum upon which I proceed. In that year there were about 20,000 criminal prosecutions, and as the Parliamentary vote was about 240,000 *l.*, it gives 12 *l.* as the average cost of each prosecution in the kingdom. I think 3,000 of those prosecutions might have been saved. Then I think it may be taken that there are 5,000 unnecessary witnesses summoned under the present system.

2702. Mr. *Attorney-General.*] What makes you take the number of unnecessary prosecutions at 3,000?—I have no data to go by, but I think it would amount to as much as that.

2703. Three-twentieths of the whole?—I think it would amount to that. Then I say that there are unnecessary witnesses on the back of the bill very frequently, and I think 5,000 of them would be saved. I find that the average amount given to each witness is 30 *s.*; that is taking assizes and sessions together.

2704. *Chairman.*]

2704. *Chairman.*] Making 7,500 *l.* for the unnecessary witnesses?—Yes. I think if you had a paid officer to conduct a great number of prosecutions, he would be able so to arrange the attendance of his witnesses that at least there would be one day saved upon one-half the number of witnesses, which I have put down at 40,000. I have put that at 5 *s.*, per day which I think is less than the real expense. I think upon the average a witness costs the country more than 5 *s.* a day. At present a certain number of attorneys tell their witnesses to come on the commission day; they are not wanted till the next day, when they come to the taxing-officer, they say that they actually came on the first day, and it would be hard to a witness not to allow it: 40,000 at 5 *s.* each gives 10,000 *l.*, so that the total saving is upon this system 53,000 *l.* a year. In 1846 there were 6,719 prisoners acquitted and discharged.

2705. Mr. *Milnes.*] How do you arrive at your number of witnesses at sessions and assizes?—By a reference to a Report, to which I can refer the Committee, dated in 1836. It is a Report of the Committee of the House of Commons upon the County Rates' Bill. There is also, about three years previously to that, the Report of the Commissioners. I think there is a great deal in those Reports which would be exceedingly useful as touching the present inquiry, and which might probably save a great deal of trouble.

2706. Will you tell us shortly how you arrive at your conclusion?—I take the average of the witnesses that attend at sessions and assizes. I put those together, and then divide the number of witnesses by the number of cases, and I find that it gives about four witnesses to each case; 20,000 cases would give 80,000 witnesses. I therefore say, that if one-half the number are saved, it would be 40,000. I would add, that I have a paper showing the average expense of prosecutions at assizes and sessions in the year 1833. On the Home Circuit it was 12 *l.* 10 *s.* 1 *d.* On the Midland Circuit, 19 *l.* 17 *s.* 4 *d.* On the Norfolk Circuit, 21 *l.* 6 *s.* 5 *d.* On the Northern Circuit, 38 *l.* 12 *s.* 9 *d.* On the Oxford Circuit, 17 *l.* 18 *s.* 8 *d.* On the Western Circuit, 18 *l.* 10 *s.* 7 *d.* Durham, 21 *l.* 15 *s.* 10 *d.* The average of five circuits was 20 *l.* 10 *s.* At the sessions the average of 30 English counties was 7 *l.* 6 *s.* 3 *d.* The average of nine Welsh counties was 12 *l.* 12 *s.* 3 *d.*

2707. Do you think that at assizes it would be possible to make some arrangement to take particular cases at a particular time, so as to prevent the witnesses and solicitors from loitering about the town. I speak more of the heavy cases?—It would; and that system is adopted now at Liverpool. At York on the Northern Circuit, but of which I have no personal experience, I know the same system occurs there. At Liverpool, I can say from my own personal experience, that a certain number of cases are selected for each day, calculated upon the number which will occupy the time that the judge sits; not a particular class of cases, but a certain number of cases, and the witnesses have notice not to come until the day fixed, so that they do not come on the commission day.

2708. Does any difficulty arise from that system?—The only difficulty that I have heard of is from the grand jury, who are necessarily kept six days in attendance, instead of two or three. The court has never been kept waiting for want of business to proceed with, and it has lessened the amount of the expenses materially. I cannot tell how much it has lessened it, but I can mention what the amount used to be on the Northern Circuit; it used to be 38 *l.* each prosecution. At Liverpool, on the last circuit, it was 22 *l.* 15 *s.*, and on the winter circuit it was 23 *l.* 10 *s.* It averages, I should say, from 23 *l.* to 24 *l.*, instead of 38 *l.*, which it used to be there; but whether that is all occasioned by this new system or not, I cannot undertake to say.

2709. Mr. *W. Ewart.*] Mr. Hankins I think stated in his evidence that such a system as you allude to would save the country from 80,000 *l.* to 100,000 *l.* a year?—I have seen Mr. Hankins since he gave evidence here, and told him that I could not quite agree in that; it would save a great deal, but I think not so large a sum as he has estimated, because there are many counties where it cannot be done with effect. If the assizes last only two or three days you cannot do it; it can only be done at such places as Liverpool where they last ten days or a fortnight.

2710. *Chairman.*] You say that one evil of the present system is that improper prosecutions are sometimes brought?—I think so.

2711. Another evil is that prosecutions fail from want of evidence which might be brought?—Yes.

H. G. Horn, Esq.

10 July 1855.

2712. Another evil is that cases often fall into the hands of low practitioners?—Yes.

2713. Another evil is that witnesses are often brought who are unnecessary?—Yes; I can give an instance of prosecutions not being properly brought, or where the parties escape because a proper officer does not preside over them; the Solicitor of the Mint I think in his prosecutions does not have above 10 per cent. of acquittals, and the general average of acquittals all over the kingdom is about 28 per cent.; I take that small per centage to arise from the efficient control of the case before it is brought into court.

2714. Mr. *Miles.*] As to the prosecutions being unfairly got up, does that have regard to the felony cases or to the misdemeanours?—Felony cases.

2715. When you say "unfairly got up," do you mean improperly brought into court?—Improperly brought.

2715.* Are those improper prosecutions in felony or in misdemeanour?—In felony.

2716. Will you state in what way they are improperly brought?—The impropriety I should say would be in cases not being properly prepared, or in the witnesses not being there to support them; I do not mean to say that they are false charges altogether, but imperfect and improper prosecutions of a low character which cannot be supported, and which, upon investigation are dismissed from the court as not being rightly brought.

2717. In all cases of felony must not the depositions be taken before magistrates?—Yes; it is so.

2718. And the magistrates' clerk is sitting with them, and to be consulted upon those cases; and upon the evidence adduced before the magistrates the committal or non-committal takes place, does it not?—Yes.

2719. Does impropriety arise before the magistrates, or does it arise after the committal has been made out, and between the committal and the trial?—Between the committal and the trial, because there is not sufficient care taken I think before the magistrates to make the case complete for trial; there is not sufficient for a conviction, but there is enough for a committal; then if the case is neglected between the time of commitment and the time of its coming into court, it is what I have called an improper prosecution; that is to say, it is an imperfect prosecution; it ought not to have come into court in that state.

2720. The word "imperfect," would have been better than "improper"?—It would.

2721. *Chairman.*] Has it happened to you to hear the judge say that the prosecution ought never to have been brought?—Yes, I have heard that.

2722. Mr. *Miles.* That is in cases of a very trifling nature?—Yes.

2723. But the offence is a felony?—Yes.

2724. *Chairman.*] I am not talking of the cases of which Mr. Miles speaks?—I have heard judges say, "It is a shameful prosecution."

2725. Mr. *W. Ewart.*] The remedy would be a due discrimination in the choice of attendance of witnesses?—Not in that case.

2726. *Chairman.*] Mr. Miles has asked you about magistrates' clerks recommending prosecutions; does not it sometimes happen that magistrates' clerks have a direct pecuniary interest in recommending prosecutions?—It does happen.

2727. Do you think that a desirable state of things?—I do not think it a desirable state of things that they should propose any prosecution which should put money into their pockets.

2728. Does not it very frequently happen?—I will not say that; no doubt it has happened; on the Western Circuit, there can be no great inducement to a magistrate's clerk to wish for a prosecution, because he only gets one guinea for it, and if he had to come a distance, it would not answer his purpose at all.

2729. Mr. *Attorney-General.*] But some of them bring up a good number of cases?—Yes; but I think a guinea is too low; I must state, that in my calculation of 2 *l.* a case, I have not taken into consideration any extra allowance for clerks, or offices, or stationery; that expense would have to be paid; I have taken it upon the following principle which makes me arrive at the number of 60; that no man should have more put upon him than the duty of getting up 500 cases in a year, and I think there is a gentleman present, an officer of a corporation, who will tell you that he gets up more than that number; that would give 1,000 *l.* a year to an officer who had 500 indictments.

2730. *Chairman.*]

2730. *Chairman.*] You have not had an opportunity of observing the internal working of the system, so as to be able to say whether you can speak to the fact of connivance with policemen, as to obtaining prosecutions or carrying them on?—No; but I know that policemen have an interest somehow or other (I do not say how) in recommending this or that attorney in different districts, and I have known two attorneys appear in the same prosecution.

2731. You consider that very scandalous?—It is certainly improper, and if it could be avoided, it would be desirable.

2732. If it could be avoided that attorneys should scramble for prosecutions, it would be desirable?—Yes.

2733. Do not you consider the mere fact that they do so, a scandal to the administration of justice?—Yes; I do not know that it exists to a very great extent, but it has occurred, I know, in two or three cases.

2734. A gentleman engaged in the metropolitan courts has told the Committee, and indeed the learned Recorder told us just now, that the prosecutions are necessarily left to policemen; do you not think that an evil?—Yes. I will, with the permission of the Committee, read an extract from a letter from Mr. Bertie Markland, the so-called public prosecutor at Leeds. He wrote the following to me: "The Town Council found that certain improper negotiations took place between the police and some of the profession, in obtaining from parties robbed retainers to conduct the prosecutions, and also that other nefarious practices were carried on. They determined to put a stop to them, and appointed two solicitors to conduct all the prosecutions. They bind over the chief constable to prosecute."

2735. Mr. *Miles.*] Have you looked through the Bill of our learned Chairman?—I cannot say that I have very attentively looked it over, because I have only seen an imperfect print of it. I thought that the result of this Committee would be to add something to it. I have seen it.

2736. As I understand your evidence, all you recommend is, the appointment of the district agents to conduct the prosecutions?—Yes.

2737. You do not go further than that?—I think that the other system which the Bill suggests would be attended with a great increase of expense, having counsel at high salaries.

2738. Mr. *Attorney-General.*] On the other hand, have you considered what you would save by setting off the remuneration of counsel under the present system?—Yes, I can tell you exactly what the remuneration of counsel is; it is 1*l.* 4*s.* each case on the average.

2739. In how many cases?—Twenty thousand cases.

2740. *Chairman.*] Surely it must amount to more than 1*l.* 4*s.*?—No it does not, because so many cases are not conducted by counsel.

2741. Mr. *Attorney-General.*] You have taken the average of each case, whether conducted by counsel or not?—Yes.

2742. How do you get at it?—From the Report of the Select Committee in 1836; from the actual returns made. They called for returns from all the clerks of assize, and all the clerks of the peace, of the details of the expenses of criminal prosecutions. From that I am giving you my data, and there is no doubt it is correct.

2743. Did they ascertain, in point of fact, the number of cases throughout the country, in a given period of time, in which counsel had been employed, and then the total amount paid to them?—The amount allowed at all places in counsel's fees.

2744. Is there any return of the actual amount paid to counsel in any given period, throughout the country?—Yes, that is it for a given year; I think it is 1833. It is from the clerks of assize of five of the circuits, and the clerks of the peace for 30 English counties; and it is upon that that all my calculations are made.

2745. *Chairman.*] Since that time the expense of prosecutions has increased excessively, according to the evidence of Mr. Hankins. It diminished from 1835 to 1846, but from 1846, downwards, it has increased excessively. The highest average before that time was 108,745*l.* a year; the average since has been 227,160*l.* a year; would not that make a considerable difference in your calculation?—No; I have calculated rather beyond that, because I have calculated that 240,000*l.* would be the gross amount. I think I could suggest a reason why the amount has increased since 1846; I think it was about that time

H. G. Horn, Esq.

10 July 1855.

that the Government took upon themselves the whole expense of the prosecutions, and I think, since that period, it has been left more to the Government than to the magistrates, to check the expenditure.

2746. The magistrates have not had the same interest in controlling it?—No.

2747. In Question 2561, the answer to me was, "No doubt, if you had a fixed man" (meaning a district agent) "the expense would be much less; so it would be if you had a fixed counsel." That is the evidence of Mr. Hankins; you do not agree to that?—I leave the Committee to judge, when I tell them that at present the expense is only 24*s.* in each case.

2748. Supposing you had 10 barristers, at 1,500*l.* a year each, what would be the amount?—Ten barristers would not amount to much; it would be 15,000*l.* a year; but that would not be a very large saving, the present amount being only about 25,000*l.* But I do not think 10 barristers would be able to do all the work. There are provisions for appointing persons for a temporary purpose, all of which would amount to a considerable sum of money; I have not sat down to calculate, minutely, what the expense would be.

2749. What you would save by the appointment of district agents, you say is 40,000*l.* a year, bythe plan which you have suggested?—About 53,000*l.*

2750. The saving by the appointment of barristers as public prosecutors, would not amount to anything like that?—I am not speaking of a particular item, you would save 53,000*l.* generally; but out of the particular item of attorney you would not save anything.

2751. But you would save that?—Yes, by lessening the number of prosecutions, and of the witnesses in attendance.

2752. Mr. *Miles.*] By having a counsel as a public prosecutor, must you not of necessity have an immense number, when you consider that there are 52 counties in England alone, and that the quarter sessions are held all in the same week?—Exactly so. You must have a great many at sessions, and you must have two for Liverpool, because two courts are sitting at the same time.

2753. *Chairman.*] How many county court judges are there throughout England?—Sixty, I believe. There are 60 districts. I think that you would want at least 60 of these appointments.

2754. Mr. *Attorney-General.*] As district agents?—I think you would want as many as 60 barristers altogether.

2755. *Chairman.*] Do you not think that three counsel would be enough for each circuit, or two counsel for each circuit?—I think two would not be sufficient; perhaps three would, because we have very often three courts sitting at the same time.

2756. The scale of salary to those who attended at the quarter sessions would be much lower. There are six circuits?—There are eight, if you take in the two Welsh circuits. You would want 16 barristers for those circuits.

2757. Mr. *Miles.*] However, from the calculation which you have made, you are able to state that you conceive that to do it efficiently there would be a considerable increase in the expenditure?—Yes; and I think it would be an unfair thing to the rising barristers their being deprived of this opportunity of advancement; and I think it would be unfair to the accused; there would be no Bar from whom they could choose counsel to defend them.

2758. Mr. *Attorney-General.*] Are you aware that this system is in full operation in Ireland?—I have heard so.

2759. You have not heard that any of those inconveniences arise there which you anticipate?—I have not.

2760. *Chairman.*] Or in Scotland?—I know that the system exists there, but I do not know the details of it.

2761. Or in France?—I am not acquainted with the French system; I have seen the French courts.

2762. Do you know that England is the only country in existence where there is not a public prosecutor?—Yes; but it has so many free institutions that I have a prejudice in favour of it.

2763. Mr. *Miles.*] Notwithstanding what has been stated, you from your long experience, extending from the year 1820, are of opinion that the proposed system would act detrimentally to the Bar?—Certainly it would do that; that would be one ingredient to be considered in the system.

2764. Mr. *Attorney-General.*] Does it act injuriously in Ireland?—It would only act injuriously for a certain time after the change took place.

2765. Mr. *Miles.*] It would reduce the number of the Bar?—At sessions and assizes, certainly.

2766. *Chairman.*] Do you think it would be well to keep up a bad system of administering criminal law for the sake of the barristers attending sessions?—No, I am not prepared to say that.

William Baliol Brett, Esq., called in; and Examined.

2767. *Chairman.*] ARE you a Barrister attending the Liverpool Sessions?—Yes, and have done so for 10 years. At Liverpool, the course of practice at criminal trials, I think, is this: There are a stipendiary magistrate and a bench of borough magistrates, and the magistrates' clerks, who are paid by salary. The criminal offences which come eventually to trial, with very few exceptions, go first before those magistrates, or some of them. If the prisoner is committed, the depositions are taken. The town clerk of Liverpool is the criminal prosecuting attorney; he is the gentleman appointed not only for the criminal business of the corporation, but for all their business, and he is paid by a very large salary.

2768. A fixed salary?—A fixed salary. He employs in his office, for the purpose of the criminal prosecutions, one clerk, who therefore is the person responsible to him for the conduct of all the criminal prosecutions.

2769. What is the name of that gentleman?—Mr. Walter, who is present. When the depositions have been taken before the magistrates, they are sent to Mr. Walter. He then examines the depositions; he sees whether, in his judgment, further evidence is required. He then sends for the witnesses in each case; he speaks to them, and re-examines them as to the facts which he thinks require further sifting, and he then makes up the brief. There are seven sessions in the year held at Liverpool before the Recorder, and there are three assizes. Mr. Walter is answerable for the conduct of the prosecutions, both at sessions and at assizes, which arise within the district of the borough of Liverpool. There is a Bar attending the sessions of about 30 barristers on the average I should say, and he thinks it right, I believe, to give to each barrister some prosecution, if there be prosecutions enough; but he does not divide the business equally. Both in number, and in the importance of the cases, he selects those barristers in whom he puts most trust. Every prosecution which is conducted in court is conducted by a barrister having a brief. Those are the cases which are tried at sessions. He proceeds upon the same principle at the assizes. At the assizes there are the cases which arise within the borough of Liverpool; there are the cases which arise within the borough of Manchester, which are also tried at Liverpool; and there are the cases which arise in the rest of that division of the county. Those cases from Liverpool and Manchester are both conducted on the same system. The others are conducted upon the ordinary system of the country, I believe. There is no doubt a difference to be observed in the trials at the assizes between those cases which come from Liverpool and Manchester and the cases which come from the other parts of the southern division of the county.

2770. Mr. *Attorney-General.*] In the way in which the prosecutions are got up?—Yes.

2771. And in the results?—And I think in the results.

2772. *Chairman.*] On which side is the balance?—The balance is clearly in favour of the cases which arise within the borough of Liverpool, and within the borough of Manchester.

2773. Under a public prosecutor?—It is the town clerk, a person of great character and position, who has the cases conducted in his own office.

2774. Mr. *Attorney-General.*] He is the public prosecutor of that district?—He is; the way in which I believe he is made public prosecutor is this, that the magistrates have come to a determination to bind over to prosecute this gentleman, who acts in the town clerk's office, and they never bind over anybody else; he therefore at once gets possession of the prosecution.

2775. Have you then any doubt from your experience of 10 years of this system, and of the other system, that the conduct of prosecutions by a regular appointed prosecutor, as compared with the conduct of prosecutions by attorneys in general from the body of the profession, is in favour of the former of those two systems?

W. B. Brett, Esq.

10 July 1855.

systems?—I have no doubt of it, assuming that the public prosecutor is a person selected of high character, and is a person paid by salary; the three requisites which I apprehend you would require in a public prosecutor are fairness, care, and skill. The chance of fairness towards the prisoner would clearly be increased by a person selected by a high authority; then with respect to care and skill, if you once assume that the person to be selected is a superior solicitor, you obtain those requisites in the same way.

2776. *Chairman.*] You have had the opportunity of watching closely both systems?—I have watched them very carefully.

2777. And your opinion is what you have been good enough to tell us?—Yes.

2778. Mr. *W. Ewart.*] Is the system carried on at any other town?—Yes, I think it is at Newcastle; and it is carried on practically at Whitehaven in the same way, by the magistrates of the borough or town coming to a resolution to bind over a person in a particular solicitor's firm to be the prosecutor.

2779. Mr. *Attorney-General.*] In fact, practically, they have constituted him the public prosecutor?—They have. He then makes a selection of the counsel who attend, not by distributing the briefs equally, but by taking those in whom he has confidence.

Mr. *Henry Walter*, called in; and Examined.

Mr. *H. Walter.*

2780. *Chairman.*] YOU are appointed by the town clerk of Liverpool, I believe, to manage that part of his duty which relates to criminal prosecutions?—Yes.

2781. How long have you held that office?—About seven or eight years.

2782. You have had an opportunity of witnessing the administration of criminal justice?—I have.

2783. In your opinion, does that state of things, namely, the appointing one single person to superintend and be responsible for the management of criminal prosecutions, tend to the better administration of justice?—I think it does.

2784. Are you aware what the system was before such an officer was appointed?—It was always carried out by the public authorities, I believe.

2785. There always has been, so long as you know, some one person responsible for getting up the prosecutions?—Yes. I have known the prosecutions in the borough of Liverpool for perhaps 20 years, and they have always been so conducted.

2786. You have never known it different?—No; I have had that information from the town clerk also.

2787. What is the average amount of acquittals?—I have only gone back for the last three years; at the sessions it is from 10 to 12 per cent.

2788. And at the assizes?—About the same.

2789. What do you reckon is the average cost of prosecuting each offender?—About 10 guineas each case. Sometimes there are three or four prisoners in a case. I have gone by cases. In the borough of Liverpool the expenses of prosecutions would be considerably more than in any other borough, inasmuch as property is stolen from off dock quays, and there is the necessity of proving the identity of property which comes from up the country; there is the passing and the transit. Then again there is property stolen from warehouses and sold to parties, and conveyed up the country to be manufactured.

2790. In short, there are circumstances connected with Liverpool which make the prosecution of felons more expensive than would generally be the case?—Yes.

2791. Mr. *W. Ewart.*] Are there not circumstances also which make the acquittals at Liverpool more?—Yes.

2792. What are those circumstances?—The robbery of sailors, for instance, and the low class of witnesses which we have, who will tell a story before the magistrate and before me, and tell a different story afterwards before the recorder; who have been tampered with by the friends of the accused, which we cannot avoid. Also, there are a great number of receivers committed for trial, in which cases I find great difficulty in obtaining convictions.

2793. *Chairman.*] Have your police anything to do with the prosecutions?—We have a detective department, and information is given to them of the offence.

2794. But you do not trust to their judgment as to whether a case should be brought to trial or not?—No; the case is submitted to me, but not until after committal, unless it is an important case.

2795. And you are the judge of the evidence which is requisite?—I am, and I draw all indictments also.

2796. You are responsible to the public?—Yes; the court before whom I conduct all cases looks to me that they shall be properly conducted.

2797. I suppose you find that that duty takes up a considerable portion of your time?—The whole of my time is entirely devoted to that duty, because, independently of getting up the cases, there is the record of the court to be prepared, which is the indictment.

2798. What is the average number of cases which you have to manage in the course of the year?—About 600 to 800, including the assizes; they have been much larger; however, within the last few years they have not been so numerous, but I think that the number of commitments to the assizes and sessions must not be taken as an index to the amount of crime in Liverpool.

2799. Do the 600 or 800 cases include the cases which are dismissed as not being supported by sufficient evidence, or do you mean the cases which are actually brought to trial. There are certain cases I suppose which you do not prosecute, because the evidence is insufficient?—Very few; prisoners are very frequently committed on more than one case, and I select the best case.

2800. Supposing a man is brought before you with only one charge, and you think the evidence insufficient, you dismiss the case, I suppose?—No, I suggest on the brief that there is not sufficient evidence, but it still goes before the grand jury.

2801. You include that class of cases?—Yes, all the labour is given.

2802. In your opinion does that system altogether tend to the proper administration of criminal justice?—Certainly, because I have no feeling but to elicit truth in favour either of the prosecution or of the prisoner; and if I can assist the prisoner in any way I always do so by furnishing him with a copy of the depositions. If there is an additional case taken against him after he is committed, which sometimes happens, I invariably furnish him with notice of it by sending an officer up to the gaol with a copy of the depositions, endorsing thereupon that he will be indicted for this case as well as the previous one.

2803. With regard to the witnesses for the prisoner, have you ever interfered to procure them?—If any intimation is given to me before the trial that certain witnesses are wanted for the prisoner, I ascertain the names of the witnesses and the whereabouts, and I forward an officer to that person.

2804. Mr. *Solicitor-General for Ireland.*] Of course, if one of those witnesses whom you have summoned for the prosecution can state circumstances favourable to the accused, you instruct your counsel to elicit those circumstances?—Certainly.

2805. You are actuated simply by a desire to ascertain the truth, and not to procure a conviction?—Certainly.

2806. *Chairman.*] You have no sort of motive in procuring a conviction?—None whatever; my motive is, to get the best evidence I can.

2807. And you are not dissatisfied with your counsel if he fails in procuring a conviction?—No, because the court, knowing the mode in which the business is conducted there, would take care that the ends of justice were not frustrated.

2808. Your object is to see that the ends of justice are attained?—That is all.

2809. Mr. *Solicitor-General for Ireland.*] Do you attend during the preliminary investigation before the magistrates?—No, but I sometimes advise, in important cases.

2810. Does any one attend on your behalf?—No; there is the superintendent of the detective department who attends.

2811. When the magistrates have investigated the case, and have sent the case for trial, as I understand, you have no power to exercise any discretion in not proceeding, but you go on with that case?—Yes.

2812. You send it before the grand jury, even although you may not think there is a sufficient case to warrant the finding of a jury?—Yes; but I generally find that the grand jury ignore the bill in those cases.

Mr. *H. Walter.*

10 July 1855.

2813. *Chairman.*] Do you communicate to them your opinion?—No; but my opinion is probably known by two or three of the witnesses.

2814. Mr. *W. Ewart.*] Have you ever known a case stopped?—The grand jury sometimes find a bill, and then the counsel for the prosecution, in opening the case, sometimes says that he thinks it is only a strong case of suspicion, and calls the attention of the court to the depositions; the court then intimates its opinion; on that the case proceeds, or an acquittal is taken.

2815. You cannot state the proportion of acquittals before this system was introduced and since?—I do not think there was any other system; I have had it from the town clerk that there was none.

2816. Can you give us any comparison between the number of acquittals elsewhere and at Liverpool?—I cannot.

2817. Do you consider the number of acquittals fewer at Liverpool?—Yes; from my experience at the Liverpool assizes, I think it is a less number.

2818. *Chairman.*] Ten out of 100 is a very small average of acquittals indeed, I should say?—I will not offer any opinion upon that.

2819. Mr. *W. Ewart.*] And at Liverpool there are circumstances which render acquittals more probable than at other places?—Yes.

2820. Mr. *Solicitor-General for Ireland.*] When a case comes into your hands as public prosecutor, have you any power to postpone the case until a future sessions or assizes, supposing you think it imperfect?—I have done such a thing by affidavit without preferring a bill to the grand jury. I have done it under these circumstances: a witness has been robbed of a large sum of money; very frequently he is a foreigner, or is obliged to go away immediately after being robbed, but is certain to be back in a given time; perhaps a session intervenes in his absence; then I apply to the court, attaching to the affidavit his letter; the court has thought proper to postpone the trial until the time when I have suggested that he will be present.

2821. You do use a discretion in making an application to the judge?—Yes; but those cases occur very seldom.

2822. Have you contrasted the cases in the borough of Liverpool, in which you conduct the prosecution, with those in the other districts at the assizes?—No, I have no opportunity of so doing.

2823. Are you yourself paid by salary?—I am.

2824. Then I suppose it was your case to which Mr. Hankins alluded the other day, when he said that the borough of Liverpool by employing a public prosecutor saved 1,200 *l.* a year?—I do not know what Mr. Hankins might say, but I should say, that whatever was gained by the fees out of the prosecutions, it would not be anything like that, if there was any gain at all, because I apprehend there is a great deal of expense.

2825. Does it rest with you altogether to select the counsel to whom you entrust the conduct of these prosecutions?—Yes, I distribute them; I go through the list; a list is furnished to me of all the barristers attending by the librarian and the man who has the management of the robing room. I should tell the Committee, that on the first day of the sessions I select a certain number of cases for that day, and I warn the witnesses in those particular cases to attend on that day; those are generally the minor cases; and I go right through the list, and give every counsel one. Then in cases of importance I of course select those men in whom I have confidence.

2826. The ordinary cases you give one after the other, without any selection?—Yes.

2827. But in the important cases you select?—I take those who I think are the best men.

2828. Mr. *Miles.*] What is the salary paid to the town clerk, as public prosecutor for the borough of Liverpool; he gets a salary?—He gets 2,500 *l.*

2829. Am I to understand that that 2,500 *l.* is paid for the prosecutions?—Certainly not; he is town clerk of the borough of Liverpool, as well as legal adviser of the corporation of Liverpool.

2830. £. 2,500 then is the whole amount of his salary?—That is his salary.

2831. Can you distinguish what part of it goes to his office as public prosecutor?—I do not know if there would be any difference made with regard to the amount of the salary paid to the town clerk whether he was prosecuting solicitor or not; there are certain officers called principal clerks to manage certain departments

ments in his office, and I am one; I am paid by salary, but my salary does not come out of the 2,500 *l.*; I am also paid by the corporation.

2832. Then possibly you may be appointed, as a clerk in the office, as the public prosecutor yourself?—Yes; I am appointed for that particular department.

2833. Then the sum of money which comes to you does not go first of all through the town clerk?—Certainly not.

2834. What is your salary?—£. 300.

2835. Do you give that as the sole salary?—No, I have a clerk at, I think, 150 *l.* or 156 *l.*, I am not quite certain which, who is also paid by the corporation. Then I have a messenger, who makes the necessary inquiries, entirely under my control, who has 2 *l.* a week, I think, and his clothes.

2836. Equivalent to 110 *l.* or 120 *l.*?—Something more than that; he has two suits of clothes, and a great coat to designate some sort of official authority.

2837. What do you put it down as equivalent to, for the whole of your establishment?—Say 600 *l.* Then independently of that, there are the stationery and the office.

2838. Are you paid for that?—We are not paid for that; that comes out of the funds of the corporation.

2839. Then about 600 *l.* a year is all that is paid for the public prosecutions, is it?—Yes. There are other expenses, of course, attending the preliminary inquiries before a person is apprehended, which are also borne by the corporation, which amount to 400 *l.* or 500 *l.* a year.

2840. We understand that your office does not come in until after a person is committed; then commences your office?—It does.

2841. I suppose all the other expenses are such expenses as always take place previously to committal; there are no others?—No.

2842. You are not able to institute, I think you told Mr. Ewart, any comparison between the number of acquittals in that part of the county of Lancaster which come into the assizes at Liverpool, and the number in your own particular borough?—I am not.

2843. *Chairman.*] We have been told by a gentleman who was sent down to superintend the expenses at Stafford, that one half of the prisoners committed at the Spring assizes were either acquitted or the bills against them were ignored; that you would consider a much greater proportion than in your business at Liverpool?—Yes.

2844. For the 600 *l.* a year, which includes everything, including yourself, the messenger, and the clerk, you conduct among you between 700 and 800 prosecutions in a year?—Yes.

2845. Supposing those 700 or 800 prosecutions were given to different attorneys, and not to any one attorney, what do you suppose would be a fair estimate of the expense; three times as much?—I could hardly say.

2846. Suppose the 700 cases were just sent to any attorneys to manage, and one attorney got up one, and another attorney got up another, without any public prosecutor at all?—I have no doubt that the amount would be very much increased.

2847. Mr. *Miles.*] But attorneys would not in all cases be employed at assizes and sessions, would they?—Yes; the court grants the costs.

2848. Mr. *W. Ewart.*] Have you or the town clerk of Liverpool ever been applied to by the authorities of any other place, with a view to adopt such a system?—It has been very much approved of.

2849. Is it adopted at any other places?—I know that it is adopted at Manchester, with the exception of drawing the indictments.

2850. You know that it is approved of?—Yes, it is highly approved of.

2851. The beginning of the case is got up, you say, by what you call the detective?—Yes.

2852. A police officer?—Yes; we have, I think, 20 servants employed in the detective department, and a superintendent.

2853. Are they persons specially selected for that duty?—Yes; as detectives.

2854. Have they any legal knowledge?—None, but they have been a long time previously in the police force.

2855. Have you any complaint of the conduct of cases by the police?—Certainly not.

Mr. *H. Walter.*

10 July 1855.

2856. Your police are particularly well educated?—Yes, the detective, in a criminal point of view.

2857. Mr. *Solicitor-General for Ireland.*] They are very much under your control, so far as that part of the business is concerned?—Yes. If I found the police put a name on the back of the indictment I should strike it off.

2858. Mr. *Miles.*] Are the magistrates' clerks at Liverpool professional men?—Yes; there are two, both of them are professional.

2859. Mr. *Solicitor-General for Ireland.*] In conducting a prosecution, if you find that a number of witnesses have been examined before the magistrates whom you think unnecessary you do not have them summoned?—Certainly not; in most cases I have to make some alteration; I have to get additional witnesses or to strike out some.

2860. Mr. *W. Ewart.*] Of course, without some such superintendence on your part there would be a greatly increased expense of witnesses?—I think there would.

2861. Mr. *Miles.*] How do you manage, supposing they are subpœnaed to attend before the magistrate; do you take upon yourself to order them not to attend?—I do not before the magistrate, but before the recorder.

2862. You were asked whether you undertook to order some of the witnesses not to attend?—On the trial, I understood it.

2863. I understood you to state that you did so?—I do.

2864. Supposing those witnesses were subpœnaed to attend as witnesses before the committing magistrate, should you undertake that still?—I do not know that witnesses are ever subpœnaed to attend before the committing magistrate. I never interfere with the witnesses brought before the committing magistrate.

2865. *Chairman.*] If you think a witness is unnecessary you do not call him?—No.

2866. And you take care that he shall not be called?—I take care that no expense is incurred in bringing him.

2867. And in the exercise of that duty you save considerable sums of money?—I do.

2868. Mr. *Miles.*] Supposing he should attend in court according to his subpœna before the magistrates, I want to know whether he would not be paid his expenses?—Before the recorder you mean?

2869. Before the recorder?—No, he would not be paid his expenses; inasmuch as I am bound over to prosecute. I send him notice early that his attendance will not be required at the coming sessions; if a man will be so obstinate as to attend after that notice, he must take the consequences.

2870. Then you have a veto over the magistrates?—In so far as judging who are the proper and necessary witnesses to attend on the trial.

2871. Mr. *Solicitor-General for Ireland.*] When a case comes into your hands you may get a single satisfactory witness who is able to prove what a dozen have proved before the magistrates?—Yes; but where there is anything like complication, I always wish the case to be supported by two witnesses. If three or four witnesses speak to one fact, I am content with two.

2872. Mr. *W. Ewart.*] That is, in the stage of the case between going before the magistrate and the recorder?—Yes.

2873. Mr. *Solicitor-General for Ireland.*] In police cases we often see unnecessary detail?—Yes, very often; the police are not the proper judges as to the necessary witnesses, and they sometimes get more than are necessary.

2874. That both protracts the trial and increases the expense?—Yes.

2875. If you have a case either of great complication in point of fact, or involving nice considerations in point of law, do you take upon yourself to be advised by counsel before the trial?—Yes, on evidence.

2876. As to the course to be pursued?—Yes; but that very seldom occurs, only in cases of conspiracy and cases of that description.

Mr. *Augustus Compton*, called in; and Examined.

Mr. *A. Compton.*

2877. *Chairman.*] WILL you state what you are?—Taxing Officer of the Northern Circuit, excepting the county palatine of Lancaster, and associated with the Judges.

2878. How long have you held that office?—Six years.

2879. During that time have you had a good deal of experience in witnessing the administration of the criminal law?—I have.

2880. In

2880. In your opinion are there any evils in the present system which result from the want of some responsible person to manage prosecutions?—Yes, there are many.

2881. Will you be good enough to tell us what they are?—I think that the scrambling for prosecutions to get them out of the hands of constables, who are bound over to prosecute; the multiplication of indictments against the same prisoner or prisoners where there is no chance of any evidence being offered in those additional indictments, for the sake of the costs; the presenting of indictments to the grand jury, without a previous inquiry before a magistrate, and even in cases that have been examined and dismissed by a magistrate, for the sake of getting costs, from motives of revenge, or for the purpose of prejudicing a witness in a case at *nisi prius*, are all evils resulting from the want of a responsible person to manage criminal prosecutions. These evils are now partially checked by the clerk of assize on the Northern Circuit, and might be entirely done away with had he more power than he now has.

2882. Have you had an opportunity of seeing that often?—I have not seen it often; but I have seen that the constables who have been bound over to prosecute have given the prosecutions to attorneys of indifferent character, and I have seen by the bills of costs that they have been improperly conducted as far as expenses go, and frequently as to justice.

2883. There has been an attempt to swell their charges improperly?—Yes, to large amounts.

2884. In consequence of the cases falling into the hands of low practitioners?—Yes, and who try to make the most of them.

2885. They having obtained the management of those prosecutions by improper influence over the policemen?—As far as I could tell.

2886. Have you any doubt that that happens?—Not at all. I could not mention any particular case.

2887. You have no doubt, from what you have seen, that that constantly happens?—No; it is well known.

2888. In your opinion, is that a very great evil, and a scandal to the administration of justice?—Very great.

2889. Does it lead, in some cases, to a failure of justice?—I could not say that it does; but it frequently leads to improper prosecutions being brought before the grand jury; in cases, for instance, that have not been taken before the magistrates, (because there would be no committal,) an indictment is frequently taken by the attorney before the grand jury, even without being signed by the clerk of assize (they have the power of doing so); the bill is thrown out or the accused is acquitted, and all the attorney cares about is the costs.

2890. You attribute that to a wish on the part of the attorneys to put costs into their pockets?—Yes.

2891. They bring criminal charges against innocent persons?—Yes. I have frequently heard the judge say, "It is a shameful case, and ought never to have been brought to the court," and disallow the costs in consequence. Sometimes the judges allow the expenses.

2892. In your opinion, does that state of things tend to the independence of the Bar, such a class of practitioners having the management of criminal cases?—I do not think that the Bar, generally, have anything to do with men of that kind; they take the brief, and they know nothing at all about it.

2893. In your opinion, is the circumstance of such men having it in their power to give briefs to the members of the Bar a favourable circumstance to the members of the Bar?—Certainly not.

2894. There are, of course, as I suppose you know, many very respectable attorneys who conduct criminal prosecutions; but there are also many of the character which you have just described?—A great many of both descriptions.

2895. With regard to the cases failing for the want of proper evidence being brought, has it ever occurred to you to remark that?—Sometimes it has occurred, but I have not been able to trace it to negligence on the part of the attorney; I do not recollect any case of that kind.

2896. Have you frequently had occasion to diminish the attorney's charges?—Frequently, almost in every case, more or less. The amount I have taxed off the costs of prosecutions in Yorkshire alone since 1850, reaches the sum of 10,742 *l.* 11 *s.* 11 *d.*, and the amount saved by arrangement and taxing in the same county during the same period reaches 32,202 *l.* 1 *s.* 4 *d.* The sum taxed off decreases

Mr. *A. Compton.*

10 July 1855.

decreases every assize; showing that the attorneys in prosecutions now are aware that I know each case as intimately as they do, and that it is useless charging for that which they know I will not allow.

2897. Have you reasons to believe that cases happen where the attorney, receiving a sum of money to pay to a witness, puts the money into his own pocket, and gives the witness a smaller sum?—I know it has occurred frequently.

2898. Have you any doubt that that frequently occurs?—I have not the least doubt of it; I have tried to stop it as much as I could by publishing what is allowed to each witness, but it does not go the whole length of stopping the practice.

2899. Has it ever occurred to you to observe whether policemen are entrusted with getting up cases?—Frequently.

2900. Do you consider that an evil?—A very great evil.

2901. Do you consider policemen a class to whom such authority can safely be entrusted?—Certainly not.

2902. All these evils which you have mentioned exist in the system as it actually prevails?—At the assizes on the Northern Circuit it does not exist now to the extent it did, because it is very much checked.

2903. How has it been checked?—By the clerk of assize and myself reading all the depositions, and knowing each case intimately; and whenever there has been anything wrong, disallowing the costs accordingly, representing the case to the judge, and giving him information upon the subject, when he acts accordingly if he thinks fit.

2904. Then you have succeeded in checking the system, to a certain extent?—Yes.

2905. But not altogether in stopping it?—Not altogether.

2906. Sir John Bayley has taken a very active part?—Yes; the present system on the Northern Circuit was established by him in 1849.

2907. In conjunction with you?—Yes. He is the clerk of assize on that circuit; he is now at York.

2908. Mr. *Miles.*] Are the bills of costs, when they come before you, merely drawn up as a sum total, or are they specified in items?—They are specified in items, most particularly.

2909. Have you ever adopted the system of paying the witnesses yourself, desiring the attorney to bring up the different witnesses?—It would be impossible without assistance, sitting in court as I do to tax and watch every case.

2910. Do not you think that some such system might be adopted, so as to ensure the sum of money paid for the expense of each witness getting into that witness's hand?—It would be very desirable. I have often thought of it, but have had difficulty in framing a plan. The way would be, to have an assistant, who would pay the amount to each witness and take his or her receipt.

2911. That would at once get rid of the evil complained of?—I think so. I have had applications from witnesses to know what they have been allowed, and I have told them; and have found that only half has been given them. In one instance a prosecution was commenced against an attorney, but was not followed up. A public prosecutor would correct that.

Mr. *William Foote,* called in; and Examined.

Mr. *W. Foote.*

2912. *Chairman.*] WILL you be good enough to tell the Committee what is your business?—An Attorney.

2913. You have paid, I believe, very considerable attention to the subject of our inquiries?—I have been engaged some years upon the subject.

2914. You have made a digest upon the text relating to the subject, have you not?—Not altogether. I am collecting material for a work; I have not yet published it. I am assistant clerk to conduct the business of two extensive petty sessions.

2915. How long have you held that office?—I have been down there 10 years, but I have been conversant with prosecutions for 20 years.

2916. Are there any evils which you think exist in the present system?—That is rather a large question to enter upon; perhaps you will take some particular head. As Mr. Miles has spoken of the costs of the prosecutions, which is a very great consideration, would you allow me to suggest a return, which I lay before the Committee, and which would at once bring before the Members a statement of the

the various items of prosecution. Up to this time I have never been able to find any such return; there are different heads spread through a large number of reports, but it is almost impossible to bring them together to arrive at any accurate conclusion.

2917. You suggest that a return should be moved for from each clerk of assize?—Yes, and clerks of the peace. Very often different returns are moved for, which give more trouble to make out than a comprehensive return, because you have to go over different documents in succession. If you move for one return, comprising the whole of the expenditure, you get under one head a correct statement. This is the form of certificate of costs allowed, usually adopted (*producing the same*); there is nothing under the heads of the proposed return, but which can be obtained from the book of allowance by the clerk of indictments or the clerk of the peace.

2918. Will you state whether, in your experience, the want of a responsible public prosecutor causes cases sometimes to be imperfectly got up, and causes a failure of justice?—I think so.

2919. The want of some responsible person to take care that proper evidence is brought forward?—Yes; I have had frequent communications from parties in different parts of the kingdom, and from my own knowledge and experience, I can certainly state that it is the case. In the county of Wilts, and, I think, in Somersetshire, and on the Western Circuit, I know a great number of the clerks to the justices, who are very respectable men, and I do not think they seek for prosecutions; in fact, up to 1848, the clerks to the justices in Wilts conducted all felony cases without a farthing remuneration. Up to that year they were not allowed one single halfpenny for making out depositions, recognizances, and so on. In that year the clerks memorialised the magistrates, and they made an allowance to them.

2920. You have told us that you think that it sometimes happens that, from the want of a public prosecutor, cases are not properly brought forward in court; do you believe also, as a consequence of that, that frivolous prosecutions are brought forward; prosecutions without sufficient grounds?—It would be a very difficult matter to say that, because we must assume that justices would not commit unless they had some reasonable grounds for committal. There are no doubt very trifling and trumpery offences which are brought before the justices, and the case being substantially proved before them, they find themselves, under the present state of the law, compelled to commit.

2921. But without the intervention of the justices are bills preferred?—Not in our county; I think it is very rare; it is the exception, and not the rule.

2922. Then the chief evil of which you would complain is, the want of sufficient care in getting up the prosecution?—Speaking generally throughout the country, there is one difficulty to which I have not heard the witnesses allude, and I think it is a very important feature. Supposing a case is brought before the justices, and it is felt to be weak, they have no means of allowing the expenses of witnesses, unless a committal takes place. Now I think that is a very great evil, because very often, from the uncertainty of what a witness can prove, and whether he can prove sufficient, we are deterred from sending for that witness from a distance. A case very recently occurred of robbery on the railway. There was a witness residing at a considerable distance; there was no means of paying the expenses of the witness if he came up, and it was very doubtful whether the person charged could be committed. Just at the last moment the company passed the witness up.

2923. Mr. *Miles.*] Did he prove to be a necessary witness?—He was a necessary witness; his evidence connected the chain; it strengthened it.

2924. And a conviction took place?—A conviction took place. My attention having been called to the loose way of conducting prosecutions, I was employed in settling various forms for one of the large publishing offices, and then I suggested a series of forms by which a prosecution could be conducted in a more orderly manner. In my own division I have adopted this plan, and it has also been adopted in many other divisions and counties. I have done it for special reasons; in every case which comes before the justices I prosecute, or prefer an indictment, and I have never felt any difficulty at all in it. I have had a great number of cases at a time; the thing has worked well, and I am perfectly convinced that it can be carried out on a much larger scale.

2925. *Chairman.*] It saves expense?—There are other considerations to be

Mr. *W. Foote.*

10 July 1855.

regarded, because many things now exist in the law which put in obstacles, by which expenses cannot very well be avoided or lessened, which might be removed. When the depositions are fully taken, with those depositions I send instructions for an indictment.

2926. Do you employ counsel, or draw the indictment yourself?—I consider the preparation of the indictment to be the business of the officer of the court. Then, at the trial, in each case I give one of these minutes of allowance; the order of the court is made out by the clerk of the peace, and it passes into my hands. I make out the items of each witness separately, and each witness signs the receipt for the money; it is a mere memorandum.

2927. Mr. *Miles.*] Where is that done; in the treasurer's office?—No; I myself make it out. I think at Gloucester the treasurer, or some person for him, attends for that purpose. I think it a very great evil, the treasurer not attending at the court of quarter sessions, or having some clerk there, to reimburse the witnesses. I think it might be done.

2928. *Chairman.*] Does any other evil occur to you which results from the want of a public prosecutor besides what you have stated?—I think there are a number of prosecutions which escape being fully entered up from not having some public officer to resort to, to undertake the trouble and risk.

2929. For instance, do you consider it a hardship upon a poor man, that there should be nobody to whom he can apply and call upon to undertake a prosecution for him?—Yes. I consider it a hardship and a very great inconvenience; but that must be qualified in some degree, because in counties where there is a police force, the party aggrieved frequently applies at once to the police; the policeman seeks for the prisoner, and, if apprehended, then he proceeds to see what evidence there is against him.

2930. All that falls upon the policeman?—All that falls upon the policeman.

2931. Do you consider a policeman a proper person to undertake all those duties?—I think it is a part of the policeman's duty; it is certainly part of his duty to trace out and detect crime, and if it is his duty to trace out and detect crime, it is his duty to trace out the evidence to support the charge.

2932. But you have mentioned something more than tracing out the evidence, have you not, because you have said that it devolves upon him to decide whether there is sufficient evidence or not?—The justices will do that upon the examination of the prisoner, because it frequently happens that, as men of experience, when a case is brought before the justices, the justices say, "This evidence is very weak; have you any other evidence to strengthen the case?" The policeman or the constable, or whoever is in charge of the case, says, "Yes, if you will give me a remand for a subsequent day, I can produce it."

2933. I understood you that you thought many cases were not prosecuted at all for want of a public prosecutor?—No, not for the want of a public prosecutor; I did not mean to go to that length.

2934. In the present state of things, I understood you to say that many cases were not prosecuted at all which ought to be prosecuted; is that your opinion?—I must say that I must qualify that in a great degree, because it is not only the absence of a public prosecutor, but it is the burden which the law imposes upon private prosecutors which makes them indisposed to carry on the case, and to have all the trouble and expense of a petty prosecution.

2935. What is that burden?—I might say annoyance, perhaps it would be a better word than "burden"; you very often find respectable persons greatly indisposed to carry on small prosecutions where they have to attend at assizes and sessions.

2936. Mr. *Miles.*] There is considerable loss of time, is there not?—Yes; and not only that, but the annoyance of hanging about the court so many days, and various other little inconveniences which they experience.

2937. *Chairman.*] Have you any remedy which you would suggest?—It is very well known that I am a very strenuous advocate for abolishing the grand jury at the quarter sessions; not at the assizes; and upon that point I have been greatly engaged; I do not think you can carry out any system of public prosecutions unless the grand jury is done away with; it adds to the expense of prosecutions undoubtedly, and I think you would have no difficulty in doing away with it.

2938. Would it not follow that, if you put a stop to the grand jury at sessions, you must put a stop to the grand jury at assizes also?—Certainly not, because the two things are totally distinct; in the one case you have a body of magistrates assembled

assembled to meet the judges, who are chief magistrates, and who are also representatives of their Sovereign. I do not see that the functions of the grand jury at the quarter sessions, who are merely a body of farmers or tradesmen, are necessary.

2939. Do you conceive that the province of the grand jury is only to receive the Judges?—I do not say that, but I say that the grand jury at the assizes form a very distinct class of persons from those who constitute the grand jury at quarter sessions.

2940. Is it not the principle that the grand jury shall say there is a *primâ facie* case both at the assizes and sessions?—Why I would uphold the grand jury at assizes is this: that if you do away with the quarter sessions grand jury, the retaining them at assizes would meet a very great objection, which many persons I know have entertained against doing away with all grand juries.

2941. Taking it as the principle of criminal justice, if it contributes to the administration of criminal justice to have the grand jury at the assizes, how can you say that you can do otherwise than have the grand jury at the sessions?—Taking it as an abstract principle, I should say, the functions being similar, the necessity also would be similar as to doing away with them, as regards mere functions.

2942. In short, if a prisoner happened to be tried at the assizes, you would have a bill preferred to the grand jury, but if he happened to be tried at the sessions you do not think it necessary?—I hardly think that a fair way of putting it; there is a great ground of objection to doing away with the grand jury at assizes, and there are many reasons, among country gentlemen, which have greater weight among themselves; but, as an abstract principle, the preferring a bill of indictment before either body, I say, is not necessary, if the case has been fully inquired into before the committing magistrate.

2943. Without taking the abstract principle, but looking at it as affecting the administration of criminal justice, in your opinion, does the grand jury contribute or not to the administration of criminal justice?—In my opinion it does not, because when a person is charged, the evidence against him is most fully taken; it is taken down in writing; it is compelled to be taken in writing by the statute, and that writing is transmitted to the court before which the prisoner is to be tried. The grand jury meet for two or three days, and have a vast number of cases to get through, and they have no written evidence before them; the parties go before them and state what they please; it is a mere chance whether a bill is found or not. I think it is a great obstruction of justice.

2944. And yet you would keep it in the case of assizes?—For the reasons which I have stated, not as a matter of necessity, certainly.

2945. Lord *Stanley.*] Can you explain the reason of the difference which you draw between the two?—I have had the means of knowing that country gentlemen do not wish to do away with the grand jury at the assizes; they wish to keep up that body; it also would be a means of meeting many objections which have been made against it, that supposing a public prosecutor were appointed, and there were no other means of preferring a charge against the accused, except through him, there should be an independent court to resort to if necessary; but as to the mere necessity of it, where a charge has been previously made before a magistrate, I must say that I do not see the necessity of it; I think also that every object would be answered by filing an information. If a person wants to proceed criminally where no investigation has been made before the magistrates, or if he wishes to put the power of the court in force, he might file an information which might be acted upon.

2946. Mr. *W. Ewart.*] In point of principle, you object to the grand jury either at sessions or at assizes?—Yes; but there is no doubt that if you took away the quarter sessions grand jury, an agent with their functions would be more useful in the court below.

2947. Mr. *Miles.*] I find in the bill of expenses which you have produced, a charge for the brief of 1 *l.* 1 *s.*?—Yes.

2948. That is a payment to yourself?—That is the ordinary county allowance.

2949. Do you invariably prosecute through counsel?—Except in cases where a man confesses the crime with which he is charged, where there would be no necessity for it.

Mr. *W. Foote.*

10 July 1855.

2950. In very trifling cases, requiring only the evidence of one witness, you would not employ counsel?—No.

2951. Have you read the Bill which is before the Committee?—I have.

2952. Do you think it would be advisable to carry out the whole system as proposed by that Bill?—I must say I do not.

2953. Will you state to the Committee what you think would be necessary as to the better administration of justice, and what you think would be unnecessary in that Bill?—I think, that confining our views to England, the nucleus exists of a system of prosecution which might be greatly improved and carried out. We have heard the plan proposed of making the clerks to the justices the assistants to a Crown officer, in conducting or getting up prosecutions, which I think might be done. I confess I find no difficulty in it, because I do not see a difficulty in conducting 50 prosecutions, or in conducting 10. If you will allow me, I have a plan prepared, which I should very much like to submit to this Committee, because the question would arise upon that. The proposal which I have to place before the Committee is this: "Proposal for the appointment of Crown Attorneys or Public Prosecutors.—1. In every county, or in such county or place as may be deemed expedient, appoint a competent person to be Crown attorney and public prosecutor for the whole county, or division of a county. 2. In cities and boroughs of considerable population a similar officer to be appointed. 3. Upon circuits a Crown attorney may be appointed for the entire circuit, and have in each county the aid of the local Crown prosecutors. 4. The metropolitan district should have a criminal lawyer of eminence as public prosecutor, and to him the local Crown prosecutors should be empowered to apply upon matters of criminal law, and for his advice and guidance generally in criminal business. 5. Such metropolitan officer, holding a highly responsible position, would greatly relieve the Home Secretary of a considerable portion of criminal business, which would thenceforth devolve upon the metropolitan public prosecutor, to the advantage of the public and to the due administration of justice. 6. The duties of the Crown attorney might, at the commencement, be rather difficult to define, as such officer would have to combine and exercise great caution, skill, vigilance, forbearance, promptitude, and determination, great knowledge of human nature, and an aptitude for business. 7. It would be his duty to investigate all criminal cases for trial, to see that prosecutions at assizes and sessions did not fail from not being properly conducted, to undertake and watch over the conduct of a case, but not unnecessarily to interfere with private individuals who wish to prosecute, but nevertheless to possess the necessary power so to do, and generally to attend to all criminal business; also to take up and conduct any prosecution, either in criminal courts or in petty sessions, when required to do so, or of his own authority upon special occasion, and when the case is of such a nature as to require the interference of the Crown officer; and it is in this respect that all the caution and judgment of such an officer would have to be exercised; for it is not every case in which, for the reason that there is no apparent prosecutor, he is to be called upon; for if such was the case, he might be continually running about to every part of his county on some unimportant matters, which might otherwise have been dealt with. He must necessarily have great latitude allowed to him for the exercise of his discretion in such cases. 8. The Crown attorney must understand thoroughly his position, that he is not to act as mere prosecutor for the Crown, but he must also see that justice is done towards the accused; and whilst protecting the public, must stand, as it were, a mediator between the accuser and the accused, and see that strict justice is done to either party. 9. Upon criminal trials it should be his duty to ascertain that proper allowances for expenses are made to prosecutors and witnesses, and to regulate the payment; for instance, in the county of Wilts, farmers, shopkeepers, mechanics and labourers are allowed precisely at the same rate; considerable alteration and saving might be effected by careful attention being paid to this particular subject. 10. There exists in England great facility for most easily, economically, and effectively working a system of Crown prosecutors and prosecutions. 11. In each county there is a petty session division, in which justices hold meetings, called petty sessions, for the transaction of criminal business, which is managed by their clerk, who is usually, at the present time, an experienced attorney. The officers of such petty session present ready means of communication for all purposes under a well-arranged general system, and wherever a constabulary force is established, additional means are afforded of facilitating

facilitating communications. Ready and convenient channels for the due transaction of business are thus now established throughout a county, between different counties, and throughout the country. There are at the present time many cases of no serious character, and which need not require the personal attendance of a Crown prosecutor. 12. Clerks to magistrates might be made valuable assistants to such Crown attorney, by forwarding with each case the names and residences of the prosecutor and witnesses, with any remarks respecting them or their evidence, and any suggestions as to additional evidence, or other matters which ought to be considered, or which might be necessary to bring under the notice of the Crown officer; and, through the magistrates' clerks, the Crown officer would have the power of having any facts further investigated and evidence collected. 13. In the place of the magistrates' clerks returning the depositions to the clerks of assize and of the peace immediately previous to the assizes and sessions, they must return them to the Crown attorney immediately after the case is taken; he will then have time to peruse and arrange the cases. At the present time there are many cases of no serious character, and which need not require the personal attendance of a Crown prosecutor; but it is a source of complaint, that where individuals are not, from various reasons, willing to come forward to prosecute, there is no authorised public officer to undertake the case. Now in such instance the Crown attorney might authorise some local authority, such as the clerk to the justices, to see that such cases are properly investigated and presented to the justices, so as to insure proper attention being paid thereto. 14. Provision must be made to defray the costs of such proceedings, for the true reason of considerable cause of complaint which at present exists is, that no person is willing to prosecute certain offences, as a private person may incur great trouble and expense without the possibility of being remunerated. 15. The public prosecutor, or Crown attorney, must not be a public informer. He will, for his own sake and for the safety of individuals, require certain conditions to be complied with previous to his services being called into action; in some cases a complaint in writing by a party; in others a request in writing from a justice. Again, a similar request from a public Board or authority, but in all cases the Crown attorney must have ample power to act upon his own responsibility, with such formal requisition in cases wherein he considers that his office ought to be exercised. 16. The Crown attorney to be appointed by the Crown, to be subject to the control of the Home Secretary, who is to have power to make regulations touching the office. 17. To be paid by a fixed salary, with an allowance for travelling expenses, clerks, and office expenses." I call the parties Crown attorneys; that is, taking the old name, it would include either barristers or attorneys. I should not limit it to any particular branch of the profession.

2954. Having read the learned Chairman's Bill, does not it strike you, that the functions which you place in the Crown attorney are very much indeed what our Chairman would place in the district agent?—Yes; but in the one instance you could work a county at a very small expense; in the other instance, where you appoint, as I understand the Bill, public prosecutors, and deputy public prosecutors, and assistant public prosecutors, and deputy assistant public prosecutors, and district agents, there would be a very great difference in the expenditure.

2955. My question went particularly to this: having listened to what you have been reading, it appears to me that the functions which your Crown attorney would perform are very like the functions which the district agent of our Chairman would perform?—Yes.

2956. Then if that is the case, that part of the Bill of our learned Chairman you would adopt relative to district agents?—Yes; but you will observe that my district agents are the clerks to the justices, and another part of the consideration would be to assume that those parties would be paid by a fixed salary for all business.

2957. Then you would have an alteration made as to the payment of the clerks to the magistrates?—Certainly; and I think a great deal of the odium which the system has gone through, as has been stated, is from the justices' clerks not being paid by salary.

2958. Did you hear the Recorder examined this morning?—I was present during the latter part of his evidence.

2959. He suggested that it would be very possible to carry out some such system as this; to make the clerks to the magistrates the prosecutors, to pay them

Mr. *W. Foote.*

10 July 1855.

by salary, and to make the clerk of the peace the district agent?—Yes, I heard that.

2960. Does that appear to you a less cumbrous and a less expensive mode of doing it?—It is substituting one party for another. If the clerk of the peace could undertake the duties of the office, as merely prosecutor of cases at quarter sessions, I do not see any objection to his undertaking them; all you want is a head to receive and arrange the depositions, and communicate with the district agents, in case it should appear that there was not sufficient evidence on the face of the depositions, or any other matter. I think that could be very easily arranged. I do not see any difficulty in conducting those prosecutions, if you have people of experience; because I have had many and serious cases, with almost every description of crime, and have had no difficulty in conducting the cases. Why I propose having a chief in London is, that it will take off a great deal of the criminal business from the Home Office, and the Crown agent, whether the clerk of the peace, or any independent person could communicate direct with that person.

2961. Does not it appear to you that the Attorney-general would be the proper person for such a purpose?—His duties are very onerous. I do not know what they are. If he could undertake it, I think he would be the very best person to do it.

2962. If you gave him a proper staff, so as to enable him to do it, do not you think he is the proper person?—Yes; only it should be under the sanction of the Home Office,—another branch of the Home Office. There is no difficulty in carrying out the system effectually and cheaply. What I would suggest is, to pick out a certain number of counties, and try it.

2963. Lord *Stanley.*] Would you make it optional with the counties to adopt that system in the first instance?—No; because I think in a matter of this sort it ought to rest with the Crown.

2964. But you propose to try it as an experiment?—Yes.

2965. Would you do it compulsorily, as an experiment, in one county?—Of course it should be compulsory.

2966. *Chairman.*] Which county would you select?—That I should leave to the authorities. I should not try one only, because I think it would be rather invidious and unfair; I should take three or four. Take an agricultural county, take a commercial county, and take a manufacturing county.

2967. Mr. *Miles.*] But if the mischiefs which exist now in criminal prosecutions exist pretty well throughout the country, do you not think it would be very much better to pass a general law upon the subject than to be dabbling by applying it to one county or the other?—I am decidedly of opinion that it would be beneficial to pass a general law, but we know the difficulties by which these things are met. Example is a great thing, and when it is effectively carried out in one place, another will adopt it.

2968. Lord *Stanley.*] Taking the average size of our agricultural counties, have you calculated what amount of staff and what expense the system would require?—I should agree pretty nearly with Mr. Horn's statement; it is I think pretty nearly accurate, but there is an estimate which none of the gentlemen have touched upon whom I have heard, namely, that supposing the Criminal Justice Bill comes into operation it would alter all calculations and everything; and it will effect a great saving. There is another little matter which I think should be laid before the Committee; the number of persons committed for the year 1853 in England and Wales was 27,057; six counties furnished 12,250 of them; 12 counties together furnished 17,230; so that it is not altogether absolutely necessary to introduce a system throughout the country; 14,334 were imprisoned under six months.

Mr. *Frederick Stephen Austin,* called in; and Examined.

Mr. *F. S. Austin.*

2969. *Chairman.*] WILL you state what you are?—Assistant to the town clerk of Manchester.

2970. Is the same system adopted at Manchester as at Liverpool?—Exactly.

2971. How long has that system been in operation at Manchester?—Ever since the establishment of the borough; it was a new borough under the Municipal Corporations Act.

2972. Do

2972. Do you recollect the time before the system was adopted in Manchester?—No; I have only been there three years and a half.

2973. Does the management of the criminal business fall under your notice?—It does; I have the entire control of it.

2974. How do you think the system operates?—I think it operates perfectly well.

2975. Do you think it saves expense?—I think it does.

2976. Do you think it prevents frivolous prosecutions?—I think so, decidedly.

2977. And do you think that it secures the proper bringing into court of those cases which are prosecuted, so that they do not fail from insufficient evidence?—Yes.

2978. You think those three advantages arise from the system of a public prosecutor?—I think so.

2979. Mr. *Solicitor-General for Ireland.*] Were you present during Mr. Walter's evidence?—I was.

2980. And do you concur generally in his views?—I do. The acquittals are about 10 per cent. in Manchester; I heard it stated this morning that the general average was about 28 per cent. Our acquittals are not quite 10 per cent., or perhaps 10 per cent. in round figures.

LIST OF APPENDIX.

Appendix, No. 1.

Documents delivered in by the Right Hon. Joseph Napier, M P., 3 July 1855:

Suggested Letter to the Inspector-General of Constabulary - - - - p. 241
Suggested Circular to the Resident Magistrates, and Magistrates at Petty Sessions, p. 241
Suggested Circular to the Sessional Solicitors - - - - - - - - p. 242
Suggested Circular to the Clerks of the Peace - - - - - - - - p. 242
Suggested Circular to the Clerks of the Crown - - - - - - - - p. 243
Letter from S. Seed, Esq. to the Attorney-General, dated 20th September 1852 - p. 243
Suggestions for the Improvement of the Administration of Criminal Justice in Ireland; p. 243
Suggested Increase of Salaries to the Sessional Solicitors - - - - - p. 244
Letters showing the Business done by Sessional Prosecutor at Carlow - - - p. 245

Appendix, No. 2.

Papers furnished by Captain John H. Hatton, referred to in Answers to Questions 1340 to 1347:

Sentences on Prisoners Committed for Trial during the Year ending March Assizes, inclusive, 1851 - - - - - - - - - - - - - - - p. 246
Sentences on Prisoners Committed for Trial during the Year ending with March Assizes, inclusive, 1852 - - - - - - - - - - - - - - - p. 246
Sentences on Prisoners Committed for Trial during the Year ending with March Assizes, inclusive, 1853 - - - - - - - - - - - - - - - p. 247
Sentences on Prisoners Committed for Trial during the Year ending with March Assizes, inclusive, 1854 - - - - - - - - - - - - - - - p. 247
Sentences on Prisoners Committed for Trial during the Year ending with March Assizes, inclusive, 1855 - - - - - - - - - - - - - - - p. 247

Appendix, No. 3.

Papers furnished by Mr. Richard Hankins:

Memorandum upon Criminal Prosecution Expenses in England and Wales - - p. 248
Statement for the Year 1853 of the Number of Prosecutions, with the Average Cost of each, distinguishing Assizes from Sessions, in the different Counties and Divisions of Counties in England and Wales - - - - - - - - - - - - - - p. 248
Statement for the Year 1853 of the Number of Prosecutions, with the Average Cost of each, distinguishing Assizes from Sessions, in the several Boroughs, &c. throughout England and Wales, with the exception of those of minor importance - - p. 250
Average Cost of Prosecutions in the different Counties, arranged according to Circuits; p. 251
Comparé of the Average Cost of Prosecutions in the Boroughs, with the Counties within which they are situated - - - - - - - - - - - - - - p. 253
Comparison of the Average Cost of Prosecutions in each of the following Eight Cities and Boroughs: Birmingham, Bristol, Hull, Leeds, Liverpool, London, Manchester, Portsmouth - - - - - - - - - - - - - - - p. 254

APPENDIX.

Appendix, No. 1.

DOCUMENTS delivered in by the Right Hon. *Joseph Napier*, M.P., 3 July 1855. Appendix, No. 1.

[These Letters were prepared, under my direction, by Mr. Seed, with a view to carry into effect the proposed Improvement of our System, which had been considered by myself and Mr. Hayes, and after full conference with Mr. Seed and others, had been approved.]

SUGGESTED Letter to the Inspector-General of Constabulary.

Sir, Dublin Castle, October 1852.

HIS Excellency the Lord Lieutenant having, in conjunction with the Attorney-general, had under his consideration the present procedure in the various departments connected with criminal prosecutions in Ireland, I am directed to inform you that his Excellency's attention has been called to the delay which frequently occurs in the proper investigation of serious cases, in consequence of the Crown solicitor of the circuit not being promptly apprised of the commission of crime.

To obviate this inconvenience to the public service, the Attorney-general has recommended that immediately on the occurrence of any outrage of moment, the sub-inspector of the district should furnish a Report of it to the Crown solicitor, in order that prompt measures may be adopted for its investigation; and his Excellency having concurred in the importance of that recommendation, I am directed to request your co-operation in having it carried into effect.

I have, &c.,
[Chief or Under Secretary.]

The Inspector-general of Constabulary,
&c. &c. &c.

SUGGESTED Circular to the Resident Magistrates, and Magistrates at Petty Sessions.

Gentlemen, Dublin Castle, October 1852.

HIS Excellency the Lord Lieutenant, in conjunction with Her Majesty's Attorney-general, having had under consideration the present procedure in the several departments connected with the administration of criminal justice in this country, I am directed to inform you that their particular attention has been called to the irregularity which prevails in the return of informations in cases which become the subject of prosecution, and to the laxity which generally exists in taking the examinations of prosecutors.

It is unnecessary to remark to you that in all cases the informations are the foundation upon which the prosecution is built, and that the ends of justice have often been defeated through want of proper attention in their preparation, or to inform you that it is by no means unusual to entrust this duty to the clerks of petty sessions, the magistrates themselves performing merely the judicial part of reading over the informations and administering the oath.

With the view of remedying these evils, his Excellency has to request that in future the resident magistrate and magistrates at petty sessions, will take care that all informations taken by them shall be forthwith returned, either by themselves or their clerk, to the office of the clerk of the Crown or peace, in order that such of them as may be deemed advisable shall be transmitted to the Crown solicitor of the circuit, who will submit them to the proper authorities, and will take care that all proper means are adopted for their effectual prosecution.

His Excellency has also to direct the attention of the magistracy to the importance of a careful preparation in taking the examinations of prosecutors, and having them in their own handwriting, in all serious cases (if practicable); and, with the view of assisting them in the investigation of cases requiring more than ordinary attention, it has been arranged that the sessional solicitors shall attend on such occasions (or the Crown solicitor of the circuit himself, if necessary), on the requisition of the magistrates, to render them all the assistance in their power: and in taking the recognizances of the accused, it will be advisable and

Appendix, No. 1.

requisite that careful inquiry should be made into the solvency of the bail, in case it should eventually be found necessary to proceed upon them.

His Excellency feels that a careful and judicious observance of these important duties will tend materially to the improvement of the administration of justice, and to facilitate the effectual suppression and prosecution of crime.

I am, &c.

To . Esq. [Chief or Under Secretary.]
Justice of the Peace, &c.

Suggested Circular to the Sessional Solicitors.

Sir, Mountjoy-square, October 1852.

Having for some time passed had under my consideration the procedure in the several departments connected with the administration of justice in Ireland, with a view to its revision and amendment, I have to inform you that I have now completed an arrangement, which, if properly carried out, and zealously acted upon by the several officers engaged in these departments, will I have no doubt effect a vast improvement.

The duties of the sessional solicitors having been hitherto confined to the prosecution of cases at quarter sessions merely, it is intended under the contemplated arrangement to extend their duties, by requiring them to assist the magistrates in the investigation of important cases, and the Crown solicitor of the circuit, in such matters and on such occasions as may be considered necessary.

They will be required to be in constant communication with the circuit Crown solicitor, and to transmit to him, once in each fortnight, copies of all informations in the class of cases usually prosecuted by them at sessions (with which the clerks of the peace will be directed to furnish them), in order that such cases may receive due consideration, and that such directions may be given respecting them as will tend to their effectual prosecution.

They will immediately after each sessions have to report to the Crown solicitor the result of the several prosecutions, and especially whether the informations have been returned by the magistrates and clerks of petty sessions to the clerk of the peace within the time specified by Act of Parliament.

I have also to call the attention of the sessional solicitors to the importance of the enforcement of estreats on forfeited recognizances in all serious cases, where there is reason to believe that either the prosecutors or the traversers have been kept out of the way, or have absented themselves either through undue influence, intimidation, or wilful neglect. Many instances have occurred where the ends of justice have been defeated in this respect through want of proper attention on the part of the public officers, and I am quite persuaded that the enforcement of estreats, in certain cases, would often be more effective than the prosecution of the party.

Further, in important cases in which it may be necessary or advisable for the sessional solicitor, he may directly apply to the Government, or to the Attorney-general or law adviser, in any matters connected with their department; but in the ordinary course of business, application may be made to the circuit Crown solicitor, who will then take care that it shall have proper and prompt attention; and finally, it will be specially required, that no sessional solicitor shall interfere in any way either in the registry of electors, or in any election matters whatsoever within their own district, such interference being considered quite incompatible with the impartial and satisfactory discharge of his public duties. It is also intended that the sessional solicitors shall not act in criminal cases for private parties, either to prosecute or defend, without a special licence from the Executive Government.

In conclusion I have to acquaint you, that, in consideration of the intended extension of the duties, and restriction of the practice of the sessional solicitors, I have recommended that their present salaries shall be increased in a moderate ratio.

I am, &c.

The Sessional Solicitor [Attorney-General.]
for the County of .

Suggested Circular to the Clerks of the Peace.

Sir, Dublin Castle, October 1852.

The Attorney-general, having had under his consideration the present mode of procedure in regard to cases prosecuted by the sessional solicitor at quarter sessions, I am directed by his Excellency to request that in future you will, once in each fortnight, furnish to the sessional solicitor of your county, copies of all informations in the class of cases usually prosecuted by him at sessions, in order that they may be transmitted without delay to the Crown solicitor of the circuit, who will take care that proper steps are taken for their effectual prosecution.

The Attorney-general has deemed it necessary to recommend this step, in consequence of the objections which have hitherto existed, and which have very reasonably been made by the sessional solicitors themselves, to the present practice of not furnishing them with the informations in proper time to enable them to prosecute with effect, it being the practice in most instances not to give the informations to the solicitor until the sitting of the court, thereby rendering any previous preparation or investigation of the case impracticable.

The

The Attorney-general has also thought it right to bring under his Excellency's consideration the laxity which has prevailed in the estreating of the forfeited recognizances of prosecutors and traversers in cases of importance, many failures of justice having occurred through want of proper attention in this respect; and I am therefore desired by his Excellency to inform you, that the sessional solicitors have been instructed in this important matter, and to request your zealous co-operation with him in the enforcement of estreats on forfeited recognizances, in such cases as the court may think proper to comply with the sessional solicitor's application in that behalf.

I am, &c.

The Clerk of the Peace
for the County of

[Chief or Under-Secretary.]

Suggested Circular to the Clerks of the Crown.

Sir, Dublin Castle, October 1852.

The Attorney-general having had under his consideration the mode of procedure in the various departments connected with the administration of criminal justice in Ireland, his attention has been directed to the delay which often occurs in the transmission of informations from the offices of the clerks of the Crown to the Crown solicitors, which has in many instances led to considerable inconvenience to the public service. He is aware, however, that very frequently this delay has arisen either from the want of punctuality or the negligence of the clerks of petty sessions in not returning informations in proper time to the Crown office; and therefore, with a view of remedying this evil, he has taken measures to ensure the punctual return of all informations to the offices of the clerks of the Crown and peace, without delay, after they leave the hands of the magistrates.

Under these circumstances, I am directed by the Lord Lieutenant to request that in future you will, once in each fortnight, transmit to the Crown solicitor of the circuit copies of any informations which you may have received in the class of cases usually prosecuted by the Attorney-general, in order that he may adopt, without delay, such measures as may be deemed necessary to their effectual prosecution.

I am, &c.

The Clerk of the Crown
for the County of

[Chief or Under-Secretary].

Martello Lodge, Ballybrack,
20 September 1852.

My dear Sir,

On reading over the statement which I sent you last week, I find there is one matter which I omitted to advert to, and, as I think it of importance, I know you will excuse my calling your attention to it. I allude to the mode of prosecuting cases at quarter sessions.

Until within the last few years, the clerks of the peace, by direction of the Attorney-general, were obliged to send copies to the circuit Crown solicitor in Dublin of the informations in such cases as were generally prosecuted at sessions, for the purpose of his reading them over, and directing such proofs as were necessary, and such inquiries as appeared to him to be advisable. The good effect of this was obvious; instead of the informations being put into the hands of the sessional solicitor, as the practice is now, for the first time on his going into Court (thus rendering any previous preparation or inquiry impracticable), it enabled him to prosecute with much better chance of success than at present. As I know that this has been made the subject of complaint by many of the assistant barristers, and as there is no doubt that it has led to a failure of justice, I just mention the matter for your consideration. It can be easily remedied, and I think would be of great service, as so many cases of importance are now prosecuted at quarter sessions.

Believe me, &c.
(signed) *S. Seed.*

The Attorney-General.

[This was prepared by Mr. *E. Hayes*, Q. C., and approved by me.—*J. Napier.*]

Suggestions for the Improvement of the Administration of Criminal Justice in *Ireland.*

Petty Sessions.

In all cases of indictable offence, a copy of the depositions to be made by the petty sessions' clerk, and forwarded at once to the Crown solicitor for his direction.

The petty sessions' clerk to be paid for this copy at the rate of 1½*d.* per folio of 92 words (*see* 14 & 15 Vict. c. 93, s. 14, *ad finem*), or such lesser sum as the Crown solicitor shall determine to be a proper compensation, if he shall be of opinion that unnecessary prolixity has been used in the preparation of the informations.

In case the magistrate shall not, at the time of committing or holding the prisoner to bail, have had any special instructions from the law officers of the Crown as to the trial, whether

Appendix, No. 1.

it shall be at assizes or sessions, the following course is suggested for his adoption:—All cases of simple larceny, and of common assault arising out of ordinary differences, he shall at once remit to the quarter sessions, unless in custody cases, where an assizes shall intervene. All capital cases, and all cases arising out of or connected with political or religious differences, shall be sent to the assizes; so also all cases against the Coin Act, the Post-office Act, the Customs, Excise, or Stamp Acts, and, generally, all custody cases where the assizes shall occur before the quarter sessions. In cases to which the foregoing directions do not apply, the magistrate, in framing the recognizance to surrender, prosecute, or give evidence, shall make the condition to be "to attend either the court of assizes at D. or the quarter sessions for the E. division of the county of F., which shall be held next after the expiration of a ten days' notice to that effect to be served at your dwelling in , in the county of , and at such assizes or sessions as the said notice shall require, to appear," &c. &c.

[The subject of sessional prosecutor's salary having been considered, the following scale was approved by me, and intended to be recommended for adoption by the Treasury.—*J. Napier.*]

Prepared under Mr. *Napier*'s direction in 1852.

Suggested Increase of Salaries to the Sessional Solicitors.

			£.	£.
Leinster Circuit	Tipperary	Increase of	100	
	Waterford	„	75	
	Wexford	„	75	
	Kilkenny	„	75	
	Wicklow	„	50	
				375
Munster Circuit	Clare	„	75	
	Limerick	„	100	
	Kerry	„	75	
	Cork	„	100	
				350
Connaught Circuit	Roscommon	„	75	
	Leitrim	„	50	
	Sligo	„	50	
	Mayo	„	75	
	Galway	„	100	
				350
North-East Circuit	Antrim	„	75	
	Down	„	75	
	Armagh	„	75	
	Monaghan	„	75	
	Louth	„	50	
	Drogheda	„	25	
				375
North-West Circuit	Cavan	„	75	
	Longford	„	75	
	Fermanagh	„	75	
	Tyrone	„	75	
	Donegal	„	75	
	Derry	„	75	
				450
Home Circuit	Meath	„	75	
	Westmeath	„	75	
	King's County	„	75	
	Queen's County	„	75	
	Carlow	„	50	
	Kildare	„	50	
				400
Total Amount of increased salaries to the sessional solicitors provided for as per other side			£.	2,300

LETTERS showing the Business done by Sessional Prosecutor at Carlow.

COUNTY CARLOW.

Carlow, 3 July 1852.

I HAVE the honour to state, that at our June Quarter Sessions the following cases were disposed of:

Tried.	At Carlow:	Convicted.
7	Burglary	5
34	Larceny	28
5	Ditto from the person	3
1	Sheep-stealing	1
2	Obtaining money under false pretences	–
4	Affray	4
3	Assault	1
	At Tullow:	
4	Burglary	2
8	Larceny	4
1	Forcible entry	1
1	Cow-stealing	1
1	Assault	1
71		51

I beg respectfully to suggest, that our efficient sessional Crown solicitor be specially directed to take charge of, and carry on important prosecutions, and that he be furnished with funds to procure Crown summonses in burglaries, cattle-stealing, &c., for necessary witnesses. Unless some arrangement of the sort be adopted, it would be better to have such cases excluded from the quarter sessions, and held over for the assizes.

J. Wynne, Esq.,
&c. &c. &c.

C. H. Tuckey, R.M.

Clerk of the Peace's Office, Carlow,
16 July 1852.

Sir,

I TAKE the liberty of calling your attention, as first law officer of the Crown, to the inefficient provision that is made for transacting the criminal business at quarter sessions, and contrasting the efficient staff that is provided for the assizes, where, comparatively speaking, there is nothing to be done. The number of persons indicted and tried at the several quarter sessions for this county (Carlow) for the last four years, is as follows, as will appear from the annual Returns made by me, viz.:

1848	478
1849	527
1850	410
1851	312
	4) 1,727
	431

being an average of 431 for the last four years, or upwards of 100 persons for trial at each quarter sessions. At the last summer assizes there were not more than 10 cases for trial, in two of which the indictments were prepared by me at quarter sessions, and were ready to be tried at sessions, and the business was disposed of in the Crown Court in about two hours.

At quarter sessions there is a local sessional prosecutor, whose duty is to prosecute in cases of assaults and riots, and, as a favour to the court and to the clerk of the peace, he examines the witnesses in felony cases, which are very numerous, for which he receives a salary, I believe, of 75 *l.*, but does not interfere further.

Appendix, No. 1.

At the assizes there is, in addition to the clerk of the Crown, a Crown solicitor, whose salary for doing the business at the two assizes for this county and Queen's County is 500*l.* per annum, and an allowance of 200 *l.* for clerks and expenses, and who also has the assistance of the Crown counsel, and can apply for all extra expenses to Government. Now, in the county of Carlow there is but seldom a serious case for trial at the assizes, and the principal part of the felonies, riots, assaults and misdemeanors are disposed of at quarter sessions, and the average number is, at the least, 5 to 1 between the quarter sessions and assizes in criminal cases, and about 150 to 1 in the civil cases, besides the registry, which is not the least.

The disproportion is very manifest, and no sufficient remuneration is provided for the officers of the court at quarter sessions for this increase of business. On the contrary, their legal fees have been almost altogether withdrawn, and business of all kinds, criminal and civil, have been sent to the quarter sessions, and no sufficient fees or salary provided; and no assistance is given whatever in the preparation of indictments, which now require considerable skill and legal knowledge, in order that they may be correctly done.

Trusting that, when leisure permits, you will look into this matter, and communicate with our assistant barrister, Mr. R. Andrews, and that you will pardon the liberty I take, as a county officer, in bringing before your notice this subject,

I remain, &c.

The Right Hon.
The Attorney-General for Ireland.

(signed) *A. K. Humfrey,*
Clerk of the Peace for the County of Carlow.

Appendix, No. 2.

Appendix, No. 2.

PAPERS furnished by Captain *John H. Hatton*, referred to in Answers to Questions 1340 to 1347.

SENTENCES on PRISONERS committed for Trial during Year ending March Assizes inclusive, 1851.

DATE.	AT ASSIZES OR SESSIONS.	GUILTY.	NOT GUILTY.	NOT A TRUE BILL.	TOTAL.
9 April 1850	Quarter sessions	42	10	2	54
1 July –	Quarter sessions	123	24	8	155
18 – –	Adjourned sessions	33	4	2	39
20 – –	Assizes	46	34	6	86
14 Oct. –	Quarter sessions	133	11	6	150
30 Dec. –	Quarter sessions	134	15	8	157
6 March 1851	Adjourned sessions	120	10	7	137
11 – –	Assizes	92	37	5	134
	TOTAL	723	145	44	912

SENTENCES on PRISONERS committed for Trial during the Year ending with March Assizes inclusive, 1852.

DATE.	AT ASSIZES OR SESSIONS.	GUILTY.	NOT GUILTY.	NOT A TRUE BILL.	TOTAL.
8 April 1851	Quarter sessions	34	7	8	49
30 June –	Quarter sessions	123	28	14	165
22 July –	Adjourned quarter sessions	40	3	6	49
24 – –	Summer assizes	56	27	7	90
13 Oct. –	Michaelmas sessions	130	30	12	172
5 Jan. 1852	Epiphany sessions	151	25	11	197
3 March –	Adjourned sessions	113	21	8	142
9 – –	Spring assizes	102	40	4	146
	TOTAL	749	181	70	1,012

SENTENCES on PRISONERS committed for Trial during the Year ending with March Assizes inclusive, 1853.

DATE.	AT ASSIZES OR SESSIONS.	GUILTY.	NOT GUILTY.	NOT A TRUE BILL.	TOTAL.
5 April 1852	Easter sessions - - - -	59	20	5	84
28 June –	Midsummer sessions - - -	144	15	10	169
19 July –	Midsummer adjourned sessions -	20	2	1	23
21 – –	Summer assizes - - - -	53	17	2	72
18 Oct. –	Michaelmas sessions - - -	109	29	13	151
3 Jan. 1853	Epiphany sessions - - -	123	18	16	157
8 March –	Adjourned sessions - - -	108	24	7	139
12 – –	Spring assizes - - - -	76	36	2	114
	TOTAL - - -	692	161	56	909

SENTENCES on PRISONERS committed for Trial during the Year ending with March Assizes inclusive, 1854.

DATE.	AT ASSIZES OR SESSIONS.	GUILTY.	NOT GUILTY.	NOT A TRUE BILL.	TOTAL.
5 April 1853	Easter quarter sessions - -	44	16	3	63
27 June –	Midsummer quarter sessions -	125	25	7	157
14 July –	Midsummer adjourned sessions -	21	13	- -	34
16 – –	Summer assizes - - - -	34	29	2	65
17 Oct. –	Michaelmas sessions - - -	172	29	9	210
29 Nov. –	Michaelmas adjourned sessions -	72	13	5	90
2 Jan. 1854	Epiphany sessions - - -	51	14	2	67
7 March –	Epiphany adjourned sessions -	141	26	14	181
11 – –	Lent assizes - - - -	73	40	5	118
	TOTAL - - -	733	205	47	985

SENTENCES on PRISONERS committed for Trial during the Year ending with March Assizes inclusive, 1855.

DATE.	AT ASSIZES OR SESSIONS.	GUILTY.	NOT GUILTY.	NOT A TRUE BILL.	TOTAL.
4 April 1854	General quarter sessions - -	33	6	1	40
16 May –	Adjourned quarter sessions -	82	22	6	110
26 June –	General quarter sessions - -	65	21	1	87
26 July –	Adjourned quarter sessions -	47	11	11	69
2 August –	Summer assizes - - - -	47	25	7	79
16 Oct. –	General quarter sessions - -	129	36	11	176
29 Nov. –	Adjourned quarter sessions -	71	15	4	90
1 Jan. 1855	General quarter sessions - -	69	23	3	95
6 March –	Adjourned quarter sessions -	112	23	6	141
12 – –	Lent assizes - - - -	56	32	3	91 *
	TOTAL - - -	711	214	53	978

* One traversed to next assizes. One ordered to be kept in strict custody until Her Majesty's pleasure respecting her shall be known (insane).

J. H. Hatton.

Appendix, No 3.

Appendix, No. 3.

PAPERS furnished by Mr. *Richard Hankins.*

MEMORANDUM upon Criminal Prosecution Expenses in *England* and *Wales.*

THE first charge upon the public funds for this service was made by the late Sir Robert Peel, in 1835, in consequence of a prevailing feeling that the landed and agricultural interests were unfairly taxed, and a vote of Parliament was taken for a sum calculated to meet one-half, or 50 per cent., of these expenses.

The payments for the latter half of that year to the 31st December amounted to the sum of 35,184 *l.*, or about 70,000 *l.* per annum.

The payments for the following year (1836) amounted to 82,944 *l.*, and for 10 years to 1845 inclusive their annual amount varied from that sum to 134,566 *l.*, averaging 108,745 *l.*, or an annual average increase of 38,000 *l.* during the 50 per cent. period.

In 1846 Parliament decided that the whole expense should be borne upon the public income, and the amount of the annual charge for the years 1847 to 1853, both inclusive, varied from 182,215 *l.* to 249,753 *l.*, giving the annual average of 227,165 *l.*; but the present charge being not less than 249,000 *l.* per annum, shows that, however these expenses may have lessened in particular years, a steady increase in them has continued, until they have exceeded in amount those of 1835 by 100,000 *l.*

Accompanying this are the following Tabular Statements for the year 1853; namely—

1. Of the Number of Prosecutions, with the average Cost of each, distinguishing Assizes from Sessions, in the different Counties and Divisions of Counties in England and Wales.
2. A similiar Statement with respect to Boroughs and Liberties.
3. The Counties classed according to Circuits.
4. The Counties, with the principal Boroughs in each.
5. The large and principal Cities and Boroughs only compared with each other.

The great discrepancy which runs through the whole of these comparative averages, both as to the counties and boroughs, as well as in districts embracing the same locality, shows the urgent necessity of some fixed rule being established with regard to what items of expense should be hereafter allowed, and thereby secure, as far as possibly can be, under a system of fees, an uniform and economical charge throughout the country.

Single prosecutions may frequently vary greatly in amount, and yet be satisfactorily explained by the altered circumstances of each case; but there can be no good reason assigned, when the average is taken of a large number of prosecutions, why the costs in one case should so far exceed those of another.

Richard Hankins.

July 1855.

No. 1.—COUNTIES.

A STATEMENT, for the Year 1853, of the Number of PROSECUTIONS, with the Average Cost of each, distinguishing Assizes from Sessions, in the different COUNTIES and DIVISIONS of COUNTIES in *England* and *Wales.*

	NUMBER OF PROSECUTIONS.		AVERAGE COST OF EACH PROSECUTION.	
	SESSIONS.	ASSIZES.	SESSIONS.	ASSIZES.
ENGLAND:	*No.*	*No.*	£. s. d.	£. s. d.
Bedford	104	38	8 7 –	12 17 4
Berks	142	60	11 19 –	17 17 4
Bucks	158	59	12 – –	17 18 –
Cambridge	86	26	9 1 –	22 – –
Chester	779	145	11 18 –	32 16 3
Cornwall	122	79	7 11 –	13 4 4
Cumberland	108	34	14 16 8	20 10 7
Derby	112	75	14 6 6	19 8 9
Devon	393	88	10 12 2	21 13 9

	NUMBER OF PROSECUTIONS.		AVERAGE COST OF EACH PROSECUTION.	
	SESSIONS.	ASSIZES.	SESSIONS.	ASSIZES.
ENGLAND—*continued.*	*No.*	*No.*	£. *s.* *d.*	£. *s.* *d.*
Dorset	227	36	7 3 –	12 10 6
Durham	239	63	11 9 1	18 19 4
Essex (half year)	182	27	9 7 –	15 13 8
Gloucester	353	127	8 18 –	14 11 9
Hants	297	119	10 14 –	19 4 4
Huntingdon	60	23	12 13 –	15 14 –
Hereford	131	35	12 – –	21 10 –
Hertford	165	18	8 19 –	24 4 5
Kent	394	155	7 3 8	13 3 8
Lancaster	1,341	187	7 11 4	25 14 –
Leicester	128	25	12 18 –	16 2 4
Lincoln, Lindsey	195	20	11 5 7	18 4 –
Lincoln, Kesteven	54	9	7 10 8	29 – –
Lincoln, Holland	78	9	10 2 –	28 13 4
Middlesex	3,190	– –	2 4 6	—
Monmouth	239	51	11 13 1	18 4 –
Norfolk	401	69	5 13 6	19 – –
Northampton	130	33	10 13 –	21 12 8
Northumberland	84	26	11 11 –	23 – –
Notts, South	96	24	10 6 –	15 17 6
Notts, North	55	6	11 8 –	20 6 8
Oxford	133	80	10 3 3	18 17 –
Rutland	17	5	7 – –	15 4 –
Somerset	330	106	8 16 4	16 10 9
Salop	147	39	9 9 –	16 1 6
Stafford	671	143	9 12 4	22 7 10
Suffolk, Ipswich	79	15	9 1 6	21 5 4
Suffolk, Beccles	67	10	9 3 3	18 2 –
Suffolk, Bury	125	21	10 1 3	15 1 –
Suffolk, Woodbridge	36	6	5 14 –	18 13 4
Surrey	834	47	4 2 10	15 8 1
Sussex, West	88	18	9 2 3	16 9 –
Sussex, East	267	43	8 10 9	12 6 6
Warwick	200	182	9 9 4	15 14 11
Westmoreland	23	11	14 16 6	22 7 3
Wilts	170	116	9 16 9	15 10 4
Worcester	352	81	9 9 6	21 7 7
York, North	149	17	10 6 6	27 1 2
York, East	112	19	10 10 10	35 13 8
York, West	869	110	9 1 –	34 10 6
WALES:				
Anglesea	38	12	12 10 –	21 6 8
Brecon	32	18	9 2 –	27 3 4
Cardigan	10	11	15 14 –	26 16 4
Carnarvon	41	25	15 11 2	25 16 –
Carmarthen	36	9	12 10 –	21 13 4
Denbigh	61	21	18 – –	23 3 –
Flint	22	14	18 3 –	23 11 5
Glamorgan	308	58	8 11 3	20 3 6
Merioneth	22	1	20 4 6	36 – –
Montgomery	57	8	11 7 4	18 10 –
Pembroke	32	33	12 17 6	22 13 4
Radnor	12	8	10 13 –	21 7 6

Appendix, No. 3.

No. 2.—BOROUGHS.

A STATEMENT, for the Year 1853, of the Number of Prosecutions, with the Average Cost of each, distinguishing Assizes from Sessions, in the several Boroughs, &c., throughout *England* and *Wales*, with the exception of those of minor Importance.

	Number of Prosecutions, with the Average Cost of each.					
	Sessions.			Assizes.		
	No.	£.	s.	d.	No.	£.	s.	d.
Abingdon	15	6	10	8	—		—	
Banbury	11	7	1	10	—		—	
Barnstaple	8	6	10	–	3	44	–	–
Bath	96	6	13	6	6	36	13	4
Bedford	25	9	16	–	—		—	
Berwick	16	13	6	3	1	40	19	–
Birmingham	326	5	2	7	—		—	
Bolton	89	7	2	–	5	31	4	–
Bradninch	7	6	6	–	—		—	
Bridgnorth	16	9	13	9	3	20	13	4
Bridgwater	17	5	–	–	3	5	7	–
Bristol	206	4	19	9	—		—	
Bury St. Edmund's	24	9	–	–	2	11	10	–
Cambridge	58	9	13	9	6	15	16	8
Chester	68	9	5	3	—		—	
Chichester	11	3	4	–	—		—	
Canterbury	36	5	17	9	—		—	
Carmarthen	5	14	4	–	9	30	6	8
Colchester	32	8	2	–	4	16	10	–
Deal	7	4	5	8	—		—	
Derby	23	16	1	–	3	15	6	8
Devizes	3	5	13	4	5	8	16	–
Devonport	32	6	18	1	—		—	
Dover	46	7	10	10	3	15	–	–
Ely, Isle of, Liberty	69	12	5	2	—		—	
Exeter	44	7	–	–	18	12	4	5
Faversham	6	3	13	4	—		—	
Falmouth	8	4	10	–	—		—	
Folkestone	12	8	15	–	1	20	–	–
Gloucester	81	8	2	5	7	16	14	3
Grantham	4	6	–	–	—		—	
Gravesend	27	7	15	6	9	12	9	–
Hastings	29	4	13	1	1	23	–	–
Hereford	29	11	14	6	4	14	15	–
Harwich	11	7	18	–	3	18	–	–
Haverfordwest	14	13	1	5	3	37	13	4
Hull	161	10	4	3	8	46	5	–
Havering-atte-Bower	17	4	7	–	2	9	–	–
Ipswich	59	8	15	7	4	21	5	–
Lynn, King's	33	16	3	–	—		—	
Leeds	305	9	4	2	40	29	15	–
Leicester	55	10	10	10	9	14	11	1
Liverpool	442	9	9	–	56	18	–	–
London	301	3	4	9	—		—	
Lichfield	29	9	7	7	—		—	
Ludlow	18	6	18	4	—		—	
Maidstone	41	6	17	1	1	11	–	–
Manchester	551	7	11	3	60	21	2	–
Maldon	7	10	5	8	—		—	
Newcastle-under-Lyne	23	5	17	4	—		—	
Newcastle-upon-Tyne	43	7	–	5	35	10	16	6
Newbury	6	12	16	8	—		—	
Newark	8	8	17	6	—		—	
Northampton	47	7	9	9	1	18	–	–
Norwich	92	7	12	4	21	9	3	9
Nottingham	53	8	–	–	24	15	3	4

	NUMBER OF PROSECUTIONS, WITH THE AVERAGE COST OF EACH.					
	SESSIONS.			ASSIZES.		
	No.	£.	*s.* *d.*	*No.*	£.	*s.* *d.*
Oxford	38	7	8 5	6	13	3 4
Peterborough Liberty	27	13	18 6	—	—	
Plymouth	79	8	4 6	1	38	– –
Portsmouth	113	6	16 9	—	—	
Ripon Liberty	4	8	10 –	2	28	– –
Reading	19	7	19 –	9	13	9 –
Rochester	47	8	11 11	3	10	– –
Rye	6	3	13 4	—	—	
St. Alban's Liberty	64	5	16 10	5	18	4 –
Salisbury, New Sarum	33	7	3 7	8	6	17 6
Saffron Walden	4	7	5 –	—	—	
Sandwich	22	6	– –	—	—	
Scarborough	11	9	– –	—	—	
Southampton (half year)	42	6	4 3	—	—	
Stamford	7	9	17 2	—	—	
Shrewsbury	25	7	13 7	4	11	15 –
Sudbury	7	6	17 1	1	23	– –
Tiverton	8	7	5 –	—	—	
Thetford	5	5	12 –	—	—	
Warwick	19	9	16 10	—	—	
Walsall	36	7	– –	—	—	
Wigan	45	7	4 5	12	26	10 –
Windsor	15	3	12 –	—	—	
Winchester	24	6	5 10	—	—	
Worcester	35	8	5 8	13	20	17 –
Wenlock	7	8	5 8	1	12	– –
Yarmouth	29	7	6 10	2	78	– –
York	61	6	18 4	4	22	10 –

No. 3.—CIRCUITS.

AVERAGE COST of Prosecutions in the different Counties, arranged according to Circuits.

CIRCUITS.		AVERAGE COST OF EACH PROSECUTION.	
		SESSIONS.	ASSIZES.
		£. *s.* *d.*	£. *s.* *d.*
Home	Hertford	8 19 –	21 4 5
	Essex	9 7 –	15 13 8
	Kent	7 3 8	13 3 8
	Sussex	8 16 6	14 7 9
	Surrey	4 2 10	15 8 1
	Average per Circuit £.	7 14 –	16 11 6
Midland	Northampton	10 13 –	21 12 8
	Rutland	7 – –	15 4 –
	Lincoln	9 12 9	25 5 9
	Nottingham	10 17 –	18 2 1
	Derby	14 6 6	19 8 9
	Leicester	12 18 –	16 2 4
	Warwick	9 9 4	15 14 11
	Average per Circuit £.	10 13 9	18 15 9

Appendix, No. 3.

CIRCUITS.		AVERAGE COST OF EACH PROSECUTION.	
		SESSIONS.	ASSIZES.
		£. s. d.	£. s. d.
Oxford	Berks	11 19 –	17 17 4
	Oxford	10 3 3	18 17 –
	Worcester	9 9 6	21 7 7
	Stafford	9 12 4	22 7 10
	Salop	9 9 –	16 1 6
	Hereford	12 – –	21 10 –
	Monmouth	11 13 1	18 4 –
	Gloucester	8 18 –	14 11 9
	Average per Circuit £.	10 8 –	18 17 1
Norfolk	Bucks	12 – –	17 18 –
	Bedford	8 7 –	12 17 4
	Huntingdon	12 13 –	15 14 –
	Cambridge	9 1 –	22 – –
	Suffolk	8 10 –	18 5 5
	Norfolk	5 13 6	19 – –
	Average per Circuit £.	9 7 5	17 12 5
Northern	Lancaster	7 11 4	25 14 –
	Westmoreland	14 6 6	22 7 3
	Cumberland	14 16 8	20 10 7
	Northumberland	11 11 –	23 – –
	Durham	11 9 1	18 19 4
	York	9 19 5	32 8 6
	Average per Circuit £.	11 14 –	23 16 7
Western	Hants	10 14 –	19 4 4
	Wilts	9 16 9	15 10 4
	Dorset	7 3 –	12 10 6
	Devon	10 12 2	21 13 9
	Cornwall	7 11 –	13 4 4
	Somerset	8 16 4	16 10 9
	Average per Circuit £.	9 2 2	16 9 –
North Wales	Montgomery	11 7 4	18 10 –
	Merioneth	20 4 6	36 – –
	Carnarvon	15 11 2	25 16 –
	Anglesea	12 10 –	21 6 8
	Denbigh	18 – –	23 5 –
	Flint	18 3 –	23 11 5
	Chester	11 18 –	32 16 3
	Average per Circuit £.	15 7 8	25 17 7
South Wales	Glamorgan	8 11 3	20 3 6
	Pembroke	12 17 6	22 13 4
	Cardigan	15 14 –	26 16 4
	Carmarthen	12 10 –	21 13 4
	Brecon	9 2 –	27 3 4
	Radnor	10 13 –	21 7 6
	Average per Circuit £.	11 11 3	23 6 3

No. 4.—COUNTIES, WITH BOROUGHS INCLUDED.

COMPARE of the AVERAGE COST of Prosecutions in the BOROUGHS, with the COUNTIES within which they are situated.

COUNTIES.	AVERAGE COST. SESSIONS.	AVERAGE COST. ASSIZES.	BOROUGHS.	AVERAGE COST. SESSIONS.	AVERAGE COST. ASSIZES.
	£. s. d.	£. s. d.		£. s. d.	£. s. d.
Bedford	8 7 –	12 17 4	Bedford	9 16 –	—
Berks	11 19 –	17 17 4	Abingdon	6 10 8	—
			Reading	7 19 –	13 9 –
			Windsor	3 12 –	—
			Newbury	12 16 8	—
Cambridge	9 1 –	22 – –	Cambridge	9 13 9	15 16 8
			Ely, Isle of, Liberty	12 5 2	—
Chester	11 18 –	32 16 3	Chester	9 5 3	—
Cornwall	7 11 –	13 4 4	Falmouth	4 10 –	—
Derby	14 6 6	19 8 9	Derby	16 1 –	15 6 8
Devon	10 12 2	21 13 9	Barnstaple	6 10 –	44 – –
			Bradninch	6 6 –	—
			Devonport	6 18 1	—
			Exeter	7 – –	12 4 5
			Plymouth	8 4 6	38 – –
			Tiverton	7 5 –	—
Essex	– – –	– – –	Colchester	8 2 –	16 10 –
			Harwich	7 18 –	18 – –
			Havering-atte-Bower	4 7 –	9 – –
			Maldon	10 5 8	—
			Saffron Waldon	7 5 –	—
Gloucester	8 18 –	14 11 9	Bristol	4 19 9	—
			Gloucester	8 2 5	16 14 3
Hants	10 14 –	19 4 4	Portsmouth	6 16 9	—
			Southampton	6 4 3	—
			Winchester	6 5 10	—
Hereford	12 – –	21 10 –	Hereford	11 14 6	14 15 –
Hertford	8 19 –	24 4 5	St. Alban's, Liberty	5 16 10	18 4 –
Kent	7 3 8	13 3 8	Canterbury	5 17 9	—
			Deal	4 5 8	—
			Dover	7 10 10	15 – –
			Faversham	3 13 4	—
			Folkestone	8 15 –	20 – –
			Gravesend	7 15 6	12 9 –
			Maidstone	6 17 1	11 – –
			Rochester	8 11 11	10 – –
			Sandwich	6 – –	—
Lancaster	7 11 4	25 14 –	Bolton	7 2 –	31 4 –
			Liverpool	9 9 –	18 – –
			Manchester	7 11 3	21 2 –
			Wigan	7 4 5	26 10 –
Leicester	12 18 –	16 2 4	Leicester	10 10 10	14 11 1
Lincoln	9 12 9	25 5 9	Grantham	6 – –	—
			Stamford	9 17 2	—
Middlesex	2 4 6	– – –	London	3 4 9	—
Norfolk	5 13 6	19 – –	Lynn, King's	16 3 –	—
			Norwich	7 12 4	9 3 9
			Thetford	5 12 –	—
			Yarmouth	7 6 10	78 – –
Northampton	10 13 –	21 12 8	Northampton	7 9 9	18 – –
			Peterborough, Liberty	13 18 6	—
Northumberland	11 11 –	23 – –	Berwick	13 6 3	40 19 –
			Newcastle-upon-Tyne	7 – 5	10 16 6

(continued)

COUNTIES.	AVERAGE COST. SESSIONS. £. s. d.	AVERAGE COST. ASSIZES. £. s. d.	BOROUGHS.	AVERAGE COST. SESSIONS. £. s. d.	AVERAGE COST. ASSIZES. £. s. d.
Nottingham	10 17 –	18 2 1	Newark	8 17 6	—
			Nottingham	8 – –	15 3 4
Oxford	10 3 3	18 17 –	Banbury	7 1 10	—
			Oxford	7 8 5	13 3 4
Somerset	8 16 4	16 10 9	Bath	6 13 6	36 13 4
			Bridgwater	5 – –	5 7 –
Salop	9 9 –	16 1 6	Bridgnorth	9 13 9	20 13 4
			Ludlow	6 18 4	—
			Shrewsbury	7 13 7	11 15 –
			Wenlock	8 5 8	12 – –
Stafford	9 12 4	22 7 10	Lichfield	9 7 7	—
			Newcastle-under-Lyme	5 17 4	—
			Walsall	7 – –	—
Suffolk	8 10 –	18 5 5	Bury St. Edmund's	9 – –	11 10 –
			Ipswich	8 15 7	21 5 –
			Sudbury	6 17 1	23 – –
Sussex	8 16 6	14 7 9	Chichester	3 4 –	—
			Hastings	4 13 1	23 – –
			Rye	3 13 4	—
Warwick	9 9 4	15 14 11	Birmingham	5 2 7	—
			Warwick	9 16 10	—
Wilts	9 16 9	15 10 4	Devizes	5 13 4	8 16 –
			Salisbury on New Sarum	7 3 7	6 17 6
Worcester	9 9 6	21 7 7	Worcester	8 5 8	20 17 –
York	9 19 5	32 8 6	Hull	10 4 3	46 5 –
			Leeds	9 4 2	29 15 –
			Ripon, Liberty	8 10 –	28 – –
			Scarborough	9 – –	—
			York	6 18 4	22 10 –
Carmarthen	12 10 –	21 13 4	Carmarthen	14 4 –	30 6 8
Pembroke	12 17 6	22 13 4	Haverfordwest	13 1 5	37 13 4

No. 5.—PRINCIPAL CITIES AND BOROUGHS.

COMPARISON of the AVERAGE COST of PROSECUTIONS in each of the following Eight CITIES and BOROUGHS.

	NUMBER OF PROSECUTIONS, WITH THE AVERAGE COST OF EACH. SESSIONS. No.	£. s. d.	ASSIZES. No.	£. s. d.
Birmingham	326	5 2 7	—	—
Bristol	206	4 19 9	—	—
Hull	161	10 4 3	8	46 5 –
Leeds	305	9 4 2	40	29 15 –
Liverpool	442	9 9 –	56	18 – –
London	301	3 4 9	—	—
Manchester	551	7 11 3	60	21 2 –
Portsmouth	113	6 16 9	—	—

ANALYSIS OF INDEX.

ALPHABETICAL and CLASSIFIED LIST of the principal HEADINGS in the following INDEX, with the Pages at which they will respectively be found.

PAGE

ACQUITTALS - - - - - - - 257
Failure of Justice - - - - - - 270
Scotland - - - - - - - - 292
Staffordshire - - - - - - - 293

Advance of Expenses - - - - - - 257
Poorer Classes - - - - - - - 286
Treasury, The - - - - - - - 295

AMENDMENT OF THE LAW:
1. *Defects of the present System* - - - 257
2. *Suggestions for its Amendment* - - 258

Appointment of Prosecutors - - - - - 258
New York - - - - - - - 283
Patronage - - - - - - - 284

Attendances of Witnesses - - - - - - 258
New York - - - - - - - 283
York - - - - - - - - 299

Attorney-general - - - - - - - 258
Central Authority - - - - - - 263
Clerks of the Peace - - - - - - 263
District Agents, 1 - - - - - - 267
Magistrates' Clerks - - - - - - 280
New York - - - - - - - 283
Nolle Prosequi - - - - - - - 283

Attorneys - - - - - - - - 259
Advance of Expenses - - - - - 257
Bar, The - - - - - - - 260
Central Criminal Court - - - - - 263
Collusion - - - - - - - 264
Convictions - - - - - - - 265
County Allowance - - - - - - 266
District Agents - - - - - - 267
Grand Juries - - - - - - - 272
Leeds, 2 - - - - - - - 278
Liverpool, 1 - - - - - - - 279
Low Practitioners - - - - - - 279
Magistrates - - - - - - - 280
Magistrates' Clerks - - - - - - 280
Metropolis, The - - - - - - - 281
New York - - - - - - - 283
North of England - - - - - - 284
Police Courts - - - - - - - 284
Police, 3, 4 - - - - - - - 285
Private Practice - - - - - - 288
Private Prosecutions - - - - - - 288
Salaried Officers - - - - - - 292
Staffordshire - - - - - - - 293
Treasury, The - - - - - - - 295
Unnecessary Witnesses - - - - - 296

PAGE

Bar, The - - - - - - - - - 260
Acquittals - - - - - - - - 257
Attorneys - - - - - - - - 259
Chairmen of Sessions - - - - - 263
District Agents, 2 - - - - - - 267
France - - - - - - - - - 271
Sessions - - - - - - - - - 293

Central Authority - - - - - - - 263
Attorney-general - - - - - - 258
Home Office - - - - - - - 276
Ireland - - - - - - - - 277
Magistrates' Clerks, 2 - - - - - 280

Central Criminal Court - - - - - - 263

Cheshire - - - - - - - - - 263

Clerks of the Peace - - - - - - - 263
Counsel - - - - - - - - 266
Staffordshire - - - - - - - 293

Collusion - - - - - - - - - 264
Compromises - - - - - - - - 265

Compromises - - - - - - - - 265
Collusion - - - - - - - - 264
Court of Error - - - - - - - 266
Queen's Bench, Court of - - - - - 290

Counsel - - - - - - - - - 266
Bar, The - - - - - - - - 260
Central Authority - - - - - - 263
Central Criminal Court - - - - - 263
District Agents, 2 - - - - - - 267
Ireland - - - - - - - - 277

DISTRICT AGENTS:
1. *Approval of the Appointment of District Agents or Prosecutors* - - - 267
2. *Their Duties and Powers* - - - 267
3. *Question of Expense considered* - - 268
Advance of Expenses - - - - - 257
Advocates Depute - - - - - - 257
Amendment of the Law - - - - - 257
Appointment of Prosecutors - - - - 258
Attendance of Witnesses - - - - - 258
Attorneys - - - - - - - 259
Bar, The - - - - - - - - 260
Central Authority - - - - - - 263
Clerks of the Peace - - - - - - 263
Compromises - - - - - - - 265
Coroners' Inquests - - - - - - 265
Counsel - - - - - - - - 266

PAGE

District Agents—continued.
- *Counties* - 266
- *Defence of Prisoners* - 267
- *Depositions* - 267
- *Expense of Prosecutions*, 3 - 269
- *Failure of Justice* - 270
- *Fees* - 271
- *Grand Juries* - 272
- *Magistrates' Clerks* - 280
- *Metropolis, The* - 281
- *Minister of Justice* - 281
- *New York* - 283
- *Patronage* - 284
- *Preliminary Investigation* - 286
- *Private Practice* - 288
- *Public Nuisances* - 289
- *Public Prosecutors* - 289
- *Responsibility* - 290
- *Salaried Officers* - 292
- *Staffordshire* - 293
- *Subordinate Officers* - 294
- *Tenure of Office* - 294
- *Witnesses* - 298

Evidence - 269
- *Advance of Expenses* - 257
- *Committals* - 264
- *Failure of Justice* - 270
- *Ignored Bills* - 277
- *Magistrates' Clerks* - 280
- *Police, The*, 1 - 284
- *Poorer Classes* - 286
- *Preliminary Investigation* - 286
- *Treasury, The* - 295
- *Witnesses* - 298

Expense of Prosecutions:
1. *Generally* - 269
2. *Increase of Expense since the Costs have been paid by the Treasury* - 270
3. *How far the proposed Bill would be likely to increase the Expense* - 270
4. *Opinions that the question of Expense is of Secondary Consideration* - 270
5. *Variations in the Cost of Prosecutions in different Places* - 270

- *Advance of Expenses* - 257
- *Attorneys* - 259
- *Boroughs* - 261
- *Central Criminal Court* - 263
- *Cheshire* - 263
- *Circuits* - 263
- *Collusion* - 264
- *Constabulary (Ireland)* - 265
- *Counsel* - 266
- *District Agents*, 1. 3 - 267
- *Grand Juries* - 272
- *Indictments* - 277
- *Ireland* - 277
- *Liverpool*, 2. 3 - 279
- *Magistrates' Clerks* - 280
- *Manchester* - 281
- *Northern Circuit* - 284
- *Petty Offences* - 284
- *Police, The*, 3 - 285
- *Poorer Classes* - 286
- *Prisoners' Witnesses* - 288
- *Ratepayers* - 290
- *Staffordshire* - 293
- *Taxation of Costs* - 294
- *Treasury, The* - 295
- *Unnecessary Witnesses* - 296
- *Witnesses* - 298

Failure of Justice - 270
- *Acquittals* - 257
- *Amendment of the Law* - 257

PAGE

Failure of Justice—continued.
- *Evidence* - 269
- *Police, The*, 2 - 285
- *Treasury, The* - 295

Fees - 271
- *Home Circuit* - 276
- *Magistrates' Clerks*, 2. 3 - 281
- *Salaried Officers* - 292
- *Taxation of Costs* - 294

France - 271
- *Scotland* - 292
- *Minister of Justice* - 281

Frivolous Prosecutions - 271
- *Amendment of the Law* - 257
- *Mint, The* - 281
- *Manchester* - 281
- *Staffordshire* - 293

Government, The - 272
- *Appointment of Prosecutors* - 258
- *Patronage* - 284

Grand Juries - 272
- *Attendance of Witnesses* - 258
- *Ignored Bills* - 277
- *Indictments* - 277
- *New York* - 283
- *Police, The* - 284
- *Preliminary Investigation*, II - 286

Home Office - 276
- *Appeals* - 258
- *Appointment of Prosecutors* - 258
- *Police, The*, 2 - 285
- *Treasury, The* - 295

Indictments - 277
- *Clerk of Indictments* - 263
- *Grand Juries* - 272

Ireland - 277
- *Attorney-general for Ireland* - 259
- *Bar, The* - 260
- *Grand Jury (Ireland)* - 273
- *Post-office Prosecutions* - 286
- *Prisoners' Witnesses* - 288
- *Private Prosecutions* - 288
- *Stipendiary Magistrates* - 293

Leeds:
1. *Defects of the former System of Prosecutions* - 278
2. *Alterations made therein, and Way in which carried out* - 278
3. *Satisfactory Result of these Alterations* - 278

- *Counties* - 266
- *Preliminary Investigation*, III. 1 - 286
- *Yorkshire* - 299

Liverpool:
1. *Mode of conducting Criminal Prosecutions* 279
2. *Beneficial operation thereof* - 279
3. *Saving of Expense as compared with other places* - 279

- *Attendance of Witnesses* - 258
- *Counsel* - 266
- *Expense of Prosecutions*, 5 - 270
- *Manchester* - 281
- *Police*, 3 - 285
- *Postponement of Trials* - 286
- *Preliminary Investigation*, III. 2 - 287
- *Unnecessary Witnesses* - 293

PAGE

Low Practitioners - - - - - - - - 279
Attorneys - - - - - - - - 259
Police Courts - - - - - - - 284
Police, 4 - - - - - - - - 285
Staffordshire - - - - - - - 293

Magistrates - - - - - - - - - 280
Appointment of Prosecutors - - - - 258
Attorneys - - - - - - - - 259
Committals - - - - - - - - 264
Committing Magistrates - - - - - 265
Evidence - - - - - - - - - 269
Expense of Prosecutions, 1 - - - - 269
Indictments - - - - - - - 277
Metropolis, The - - - - - - - 281
New York - - - - - - - - 283
Petty Offences - - - - - - - 284
Police, 3 - - - - - - - - 285
Preliminary Investigation - - - - - 286
Public Examination - - - - - - 289
Stipendiary Magistrates - - - - - 293

Magistrates' Clerks:
1. *How far they might get up the Evidence under the District Agents* - - - 280
2. *Approval of the Plan suggested, of making them the District Agents or Prosecutors* 280
3. *Objections to this Plan; Difficulties in the way of carrying it out* - - - 281

Collusion - - - - - - - - 264
District Agents - - - - - - - 267
Evidence - - - - - - - - - 269
Fees - - - - - - - - - 271
Frivolous Prosecutions - - - - - 271
Metropolis, The - - - - - - - 281
Petty Sessions' Clerks - - - - - 284
Salaried Officers - - - - - - - 292

Manchester - - - - - - - - - 281
Liverpool, 2 - - - - - - - - 279

Metropolis, The - - - - - - - - 281
Central Authority - - - - - - - 263
Murder, Cases of - - - - - - - 282
Police, 2, 4 - - - - - - - - 285
Provinces, The - - - - - - - 289

Minister of Justice - - - - - - - - 281
Attorney-General - - - - - - - 258
Bar, The - - - - - - - - - 260

New York, State of - - - - - - - 283
Preliminary Investigation, III. 4 - - - 287
Prisoners' Witnesses - - - - - - 288
Private Practice - - - - - - - 288

Patronage - - - - - - - - - 284
Appointment of Prosecutors - - - - 258

Payment of Witnesses - - - - - - - 284
Advance of Expenses - - - - - - 257
Witnesses - - - - - - - - 298

Police, The:
1. *Utility of the Police, as regards the Preliminary Investigation* - - - 284
2. *Approval of the System of the Police being bound over to Prosecute* - - - 285
3. *Objections to this Practice* - - - 285
4. *Opinions as to their acting in Connivance with Attorneys* - - - - - 285

Collusion - - - - - - - - - 264
Constables - - - - - - - - 265
Constabulary (Ireland) - - - - - 265

PAGE

Police, The—continued.
Home Office - - - - - - - - 276
Leeds, 2 - - - - - - - - - 278
Low Practitioners - - - - - - - 279
Preliminary Investigation - - - - - 286
Taxation of Costs - - - - - - - 294
Unnecessary Witnesses - - - - - 296

Poorer Classes - - - - - - - - 286
Advance of Expenses - - - - - - 257
Prisoners' Witnesses - - - - - 288

Preliminary Investigation:
I. *Defective state of the present System of Preliminary Investigation* - - - 286
II. *Opinions as to how far the proposed Bill would remedy this* - - - - - 286
III. *Nature of the Preliminary Investigation in Various places* - - - - - 286
1. *Leeds* - - - - - - 286
2. *Liverpool* - - - - - 286
3. *Scotland* - - - - - 287
4. *New York, State of* - - - 287

Appeals - - - - - - - - - 258
Capital Offences - - - - - - - 263
Police, 1 - - - - - - - - - 284

Prisoners' Witnesses - - - - - - - 288

Private Prosecutions - - - - - - - 288
District Agents, 2 - - - - - - - 267
Home Office - - - - - - - - 276
Poorer Classes - - - - - - - 286

Public Prosecutors - - - - - - - 289
Amendment of the Law - - - - - - 257
Appointment of Prosecutors - - - - 258
Attorney-General - - - - - - - 258
Bar, The - - - - - - - - - 259
Central Authority - - - - - - - 263
Central Criminal Court - - - - - 263
Committals - - - - - - - - 264
Compromises - - - - - - - - 265
District Agents - - - - - - - 267
Evidence - - - - - - - - - 269
Expense of Prosecutions - - - - - 269
Failure of Justice - - - - - - - 270
Foreign Countries - - - - - - - 271
France - - - - - - - - - 271
Frivolous Prosecutions - - - - - 271
Government, The - - - - - - - 272
Grand Juries - - - - - - - - 272
Ireland - - - - - - - - - 277
Leeds - - - - - - - - - 278
Liverpool - - - - - - - - 279
Magistrates - - - - - - - - 280
Magistrates' Clerks - - - - - - 280
Minister of Justice - - - - - - 281
New York - - - - - - - - 283
Poorer Classes - - - - - - - 286
Preliminary Investigations - - - - 286
Private Prosecutions - - - - - 288
Responsibility - - - - - - - 290
Salaried Officers - - - - - - - 292
Scotland - - - - - - - - 292
Special Prosecutor - - - - - - 293
Tenure of Office - - - - - - - 294
Trials - - - - - - - - - 295
Wales - - - - - - - - - 297

Salaried Officers - - - - - - - 292
Counsel - - - - - - - - - 266
District Agents, 2 - - - - - - - 267
Expense of Prosecutions, 3. 4 - - - - 270
Fees - - - - - - - - - 271
Ireland - - - - - - - - - 277

PAGE

Salaried Officers—continued.
- *Leinster Circuit* - 279
- *Liverpool* - 279
- *Magistrates' Clerks*, 2. 3 - 280

Scotland - 292
- *Advocates Depute* - 257
- *Appeals* - 259
- *Convictions* - 265
- *District Agents*, 2 - 267
- *France* - 271
- *Preliminary Investigations* - 286
- *Private Prosecutions* - 288
- *Procurators Fiscal* - 289
- *Warrants* - 297

Staffordshire - 293

Taxation of Costs - 294
- *Expense of Prosecutions* - 269
- *Northern Circuit* - 284
- *Treasury, The* - 295

Treasury, The - 295
- *Attorney-general* - 258
- *Chartist Trials* - 263
- *Consolidated Fund* - 265
- *Expense of Prosecutions*, 2 - 270
- *Factory Cases* - 270

PAGE

Treasury, The—continued.
- *Home Office* - 276
- *Murder, Cases of* - 282
- *Taxation of Costs* - 294

Trials - 295
- *Committing Magistrates* - 265
- *Evidence* - 269

Unnecessary Witnesses - 296
- *District Agents*, 2 - 267

Witnesses - 298
- *Advance of Expenses* - 257
- *Attendance of Witnesses* - 258
- *Central Criminal Court* - 263
- *Compromises* - 265
- *Coroners' Inquests* - 265
- *District Agents*, 2 - 267
- *Evidence* - 269
- *Grand Juries* - 272
- *Ignored Bills* - 277
- *Payment of Witnesses* - 284
- *Petty Offences* - 284
- *Prisoners' Witnesses* - 288
- *Recognizances* - 290
- *Treasury, The* - 295
- *Unnecessary Witnesses* - 296
- *York* - 299

I N D E X.

[*N.B.*—In this Index the *Figures* following the Names of the Witnesses refer to the Questions of the Evidence; and those following *App. p.*, to the paging of the Appendix.]

A.

ACQUITTALS. Effect of acquittals as tending to the encouragement of offences, *Lord Brougham*, 44-49——The inferiority of any particular bar tends to increase the number of local acquittals, *ib.* 81, 82——Escape of criminals from the want of a person directly interested on the part of the part of the public in the management of the prosecution, *Wilkinson* 1998, 1999.——*See* also *Failure of Justice. Scotland. Staffordshire.*

Adjournment of Trials. The power of adjournment of trials should be extended to criminal courts, *Waddington* 2110, 2111.

Administration of Justice. Evils which strike witness in the present system, *Horn* 2680 *et seq.*

See also *Amendment of the Law. Failure of Justice. Magistrates. Scotland.*

Advance of Expenses. Great evil in it being often necessary for the attorney to raise money to conduct prosecutions, by which moreover he is frequently out of pocket; case in point; *Greaves* 308–313——The district agent should not anticipate the payment of witnesses' expenses, *ib.* 395–399——Rare instances of attorneys for the prosecution advancing money for witnesses, and being out of pocket thereby, *Straight* 477–488——Readiness of attorneys to undertake prosecutions for poor persons, their expenses being sure to be reimbursed, *Lord Campbell* 664, 665. 687–693.

Necessity for attorneys for the prosecution sometimes advancing the expenses without always being reimbursed by the court, though such expenses may have been fair and legitimate, *Markland* 730–740. 750–754. 814–830——Loss of money by the attorney for bringing witnesses to the trial does not often occur, *ib.* 813——Objection to the practice of attorneys advancing considerable sums of money to get up the evidence for a prosecution, *Preston* 1163–1167; *Waddington* 2089–2091; *Goodman* 2162–2176.

No particular evil can arise from an attorney having to advance money to procure evidence, *Roberts* 1472–1477; *Wilkinson* 2000–2003——Loss witness has sustained in the course of his professional duty by having to make advances in getting up prosecutions, *Hobler* 1725–1727——It may be safely left to the district agent to advance money for witnesses, without control on the part of the judge; the power to advance such money would be an improvement on the present system, *Markland* 814–851——Repayment generally to attorneys of the witnesses' expenses advanced by them, *Hemp* 906–911.

See also *Poorer Classes. Treasury, The.*

Advocates-Depute (Scotland). Particulars relative to the advocates-depute, of whom there are four, and one for the Sheriff Court, *Lord Advocate* 111. 113–119——Advantages in the advocates-depute going out of office upon change of government, *ib.* 140–143.

Defect in the Scotch system, in the deputes-advocate going out with the Lord Advocate, *Lord Campbell* 707.

Allowances to Witness. See *Payment of Witnesses. Prisoners' Witnesses. Witnesses.*

AMENDMENT OF THE LAW:

1. *Defects of the present System.*
2. *Suggestions for its Amendment.*

1. *Defects of the present System:*

Sundry objections to the present law and practice as regards prosecutions, *Lord Brougham* 3 *et seq.*——Concurrence in the unfavourable views expressed by the Commissioners on Criminal Law in 1845, in regard to the present system of prosecution, *ib.* 52——The evils arising from the want of some responsible person to undertake the duties of criminal prosecution are not so great as has been supposed, *Straight* 448——Frequency of cases being brought into court which ought not to come there, *Preston* 1148, 1149; *Sir A. Cockburn* 2394——Great mismanagement in conducting cases under the present system, *Preston* 1150.

Report, 1855—*continued.*

Amendment of the Law—continued.

1. *Defects of the present System*—continued.

Undoubted evils in the present system of administering criminal justice pointed out *Waddington* 2064 *et seq.*——It may be possible that criminal justice may be obstructed from the want of a proper person to superintend the prosecutions, *Reynolds*, 1589–1592——Evils which strike witness as existing at present, *Avory* 2246 *et seq.*——Although upon the whole the present system works well, it is open to serious exceptions, and is capable of great improvement, *Sir A. Cockburn* 2394. 2408 *et seq.* 2455.

2. *Suggestions for its Amendment:*

Sundry evils which the appointment of a public prosecutor would remedy, *Lord Campbell* 639. 651, 652. 672. 674. 678. 694–696——Much has been done of late years to amend the criminal law, and to prevent compromises, &c. *ib.* 653——Check upon frivolous prosecutions under a system of public prosecution, *Markland* 727; *Hemp* 899, 900——Respects in which the present system of the administration of criminal justice requires improvement, *Roberts* 1478, 1479; *Wilkinson* 1989 *et seq.*——Opinion that an improved system is quite attainable in England, care being taken to avoid too sudden a change, *Right Hon. J. Napier* 1874.

Amendments which might be beneficially made in the present system of administering criminal justice, *Hobler* 1675 *et seq.*——Very important changes might be made in the present of administering criminal justice; power already exists for making many of them, *Avory* 2245——Witness can see the evil of the present system of managing criminal prosecution; but does not know of any scheme which has been proposed to which he can give his entire assent, *Right Hon. J. A. S. Wortley* 2601——Evils of the present system which require amendment, *ib.* 2602.

America. Employment of a public prosecutor in the United States, *Lord Brougham* 29. 86, 87.

Appeals. In Scotland there is no appeal from the Lord Advocate as to whether a case should be tried or not, *Lord Advocate* 171——Preference given to a careful previous investigation over any power of appeal, *Right Hon. J. Napier* 1875–1877——Frequency of a sort of appeal being made to the Home Office is consequence of proof in favour of the prisoner not having been given, *Waddington* 2112——Circumstances under which such cases arise; steps taken by the Home Office in these cases; pardon is sometimes granted, *ib* 2112–2119.

Appointment of Prosecutors. The local public prosecutors might be appointed by magistrates or by councils of boroughs, *Barr* 1414–1418. 1423–1431——Government might appoint them, but could not have that local information necessary for the appointments possessed by the magistrates, *ib.* 1419–1421——Way in which witness would suggest that the appointments of the district agents should be made, *ib.* 1422–1433——Witness would unhesitatingly put the appointment of the district agents in the hands of the Home Department, *Sir A. Cockburn*, 2444, 2445. 2449.

See also *New York.* *Patronage.*

Assaults. Effect of the prospect of costs in influencing prosecutions for assaults, &c., *Greaves* 373–375——In cases of assault the costs of prosecution are now paid by the public, *Markland*, 729.

Assizes. See *Ignored Bills.* *Ireland.* *Staffordshire.*

Attendance of Witnesses. Justice is sometimes defeated by procuring the absence of witnesses before the grand jury, *Right Hon. J. A. S. Wortley* 2602——Possibility at assizes of taking particular cases on particular days to prevent the too long attendance of witnesses; this system is adopted at Liverpool with good effect, *Horn* 2707–2709——How far the appointment of a district prosecutor would be likely to insure a better attendance of witnesses at trials than is now obtained, *Wilkinson* 2016–2021, 2034–2051.

See also *New York.* *York.*

Attorney-General. Painful and embarrassing position in which the Attorney-general is sometimes placed, through there not being a public prosecution, *Lord Campbell*, 639——Suggestion for requiring the sanction of the Attorney-general to prosecutions for perjury, conspiracy, &c., *ib.* 674–677——Insufficiency of the sanction of the Attorney-general to prosecutions in cases of indictment for perjury, conspiracy, &c., *Leeman* 960.

In prosecutions taken up by the Treasury the Attorney-general is not necessarily consulted, *Reynolds* 1610–1614——The Attorney-general, with his other functions, would not be able to discharge the duties of minister of justice, *Waddington* 2120–2126——With the assistance of district counsel the Attorney-general might undertake the supervision of a large number of district agents, *Sir A. Cockburn* 2435–2443.

See also *Central Authority.* *Clerks of the Peace.* *District Agents*, 1. *Magistrates' Clerks.* *New York.* *Nolle Prosequi.*

Attorney-

Report, 1855—*continued.*

Attorney-General for Ireland. The theory of the practice in Ireland is that the Attorney-general either personally conducts the prosecution, or conducts it by some one appointed by him; opinion that this course is founded upon a right principle, *Right Hon. J. Napier* 1832–1835. 1888–1906——Great advantage resulting from this system as regards the directing the attention of the junior prosecutors to the study of the criminal law, *ib.* 1836–1841. 1907–1913——The Attorney-general in Ireland in exercising his discretion as to what cases he would prosecute in, would of course see that the prosecution was one of public justice, and not with a view to work out any private object, *ib.* 1963–1968.

See also *Ireland.*

Attorneys. Attorneys should be employed in all cases, and should under certain circumstances be selected by the magistrates or district agents to conduct the case to the end, *Greaves* 277. 298–300. 349. 363–365——Check upon the operations of low attorneys by the plan proposed by witness, *ib.* 307——The district agents should be selected from persons acquainted with the law; reasons why witness would prefer attorneys to barristers, *Sir A. Cockburn* 2414, 2415. 2432–2434——Statement delivered in, showing the present allowances to attorneys on the different circuits, *Horn* 2701——In almost every case which has come before witness he has had to diminish the attorney's charges either more or less, *Compton* 2896.

See also *Advance of Expenses. Bar, The Central Criminal Court. Collusion. Convictions. County Allowance. District Agents. Grand Juries. Leeds,* 2. *Liverpool,* 1. *Low Practitioners. Magistrates. Magistrates' Clerks. Metropolis, The. New York. North of England. Police Courts. Police,* 3, 4. *Private Practice. Private Prosecutions. Salaried Officers. Staffordshire. Treasury, The. Unnecessary Witnesses.*

Austen, Frederick Stephen. (Analysis of his Evidence.)—Assistant to the town clerk of Manchester; the same system of criminal justice is pursued there as at Liverpool, 2969–2972——The system operates perfectly well; it saves expense and prevents frivolous prosecutions, 2973–2980.

Avory, Henry. (Analysis of his Evidence.)—Has been clerk of indictments on the Home Circuit about eight years, 2239, 2240——Duties of the office, 2241——If counsel are not employed, the clerk draws the indictments and sees the witnesses himself, 2241, 2242——Witness has had experience in taxing costs, 2243, 2244——Very important changes might be made in the present system of administering criminal justice; power already exists for making a great many of them, 2245——Evils which strike witness as existing at present, 2246 *et seq.*——Great evil arising from the absence of some responsible person to conduct the prosecution from committal to trial, 2246–2249——The present system leads sometimes to bringing prosecutions into the hands of a lower class of practitioners, 2250–2253. 2261——Opinion that every case should be conducted by counsel, 2254–2260.

Witness has no substantial grounds for doubting whether the full allowances are paid to witnesses, 2262——There is a class of persons who attend police courts for the sake of getting prosecutions who are not attorneys, 2263, 2264——Witness has never met with any case of policemen receiving fees for bringing prosecutions to attorneys, 2265–2267——Grounds for forming the opinion that the police are the most competent persons to get up the evidence; but witness has never heard of their managing prosecutions, in the proper acceptation of the term, nor would he consider them the proper persons to do so, 2268–2332——Even in their collecting the evidence, it would be an advantage if there were some superior person to control them, 2284–2332. 2336–2338.

Indecent scrambles may perhaps occasionally take place between attorneys for the management of prosecutions, 2333–2335——Any power of allowing the expenses of prisoners' witnesses would require to be most scrupulously exercised; with certain checks, however, it might be safely done; proposed nature of these checks, 2339–2345——If paid by salary instead of fees the magistrates' clerks would be the fittest persons to conduct prosecutions, 2346–2366. 2369–2373. 2377——Even if their salaries were considerably increased, this plan would be much less expensive than a separate and distinct establishment of public prosecutors, 2346–2366——A great number of frivolous prosecutions are brought, but witness does not see how the magistrates' clerks are to help this, 2367, 2368.

Opinion that it would be sufficient to establish the magistrates' clerks throughout the country as public prosecutors; giving them in all cases of difficulty a reference direct to the Attorney-general, 2378–2382——Local control which might exist over the conduct of the clerks as well as the central control of the Attorney-general, 2383–2386——Setting aside all considerations of expense, it would be a still greater advantage to have a distinct body of men to conduct prosecutions, 2387–2390——Still to entrust them to the magistrates' clerks would be a great improvement on the present system, 2387–2390.

Report, 1855—*continued.*

B.

Bar, The. Reason for objecting to barristers as district agents, *Greaves* 361, 362. 426–431; *Hemp* 894. 924–927. 943–947——A barrister should not be a district agent, *Markland* 746, 747. 756. 794–801. 807–812; *Leeman* 955; *Trafford* 1041; *Horn* 2757–2766——Prejudice to the independence of the bar, if barristers be appointed district agents. *Markland* 746; *Hemp* 944–947——The appointment of a public prosecutor would not be injurious to the bar, *Cameron* 1110, 1111. 1136–1138.

There might be a great evil connected with the appointment of public prosecutors, as regards the bar, *Roberts* 1546——How far it would tend to throw a monopoly into the hands of a public prosecutor, as against the rising talents of the bar, *ib.*——Opinion that the Irish system is not injurious to the bar, *Right hon. J. Napier* 1856–1863——It encourages the division of labour at the bar, and is to the public benefit, *ib.*

There could be no objection, if practicable, to transferring to the higher classes of professional men the conduct of prosecutions, *Barr* 1407–1412——Grounds for forming the opinion that it is practically impossible, *ib.*——If, however, this could be done, it would do away with the necessity for the mass of officers contemplated by the Bill, *ib.* 1412——Way in which the 10th, 11th, and 12th sections of the Bill might be combined as effectually to vest in respectable men the power of conducting prosecutions without the necessity for public prosecutors, *ib.* 1413–1416.

Looking to the interests of the bar, it would not be advantageous to give the prosecuting counsel the dignity of a minister of justice, *Right Hon. J. A. S. Wortley,* 2654–2658. 2660——The appointment of a public prosecutor by the Crown would not do away with the sharp collisions which occasionally take place between the prosecuting and the defending counsel, *ib.* 2666–2669.

See also *Acquittals. Attorneys. Chairmen of Sessions. District Agents,* 2. *France. Sessions.*

Barr, Robert. (Analysis of his Evidence.)—Has been clerk and assistant clerk to the justices at Leeds nearly 40 years; has had opportunities of seeing a good deal of the administration of the criminal law, 1374–1376. 1442–1444——Evidence as to the report made by witness in 1842, on the subject of criminal prosecutions and the appointment of Mr. Markland and Mr. Rawson as public prosecutors, consequent upon that report, 1377–1379. 1396–1398——Satisfactory and advantageous result of these appointments, 1380–1383——This system which has been adopted at Leeds might be beneficially adopted in other parts of the kingdom; but witness does not go the whole length of the Bill, 1384–1386.

By the system adopted at Leeds no assistance is given before commitment, that is, in getting up the cases for trial; the provision made in the Bill with this object would be a considerable improvement, 1386. 1391–1393——Since the adoption of the present system in Leeds, about 80 cases out of every 100 have resulted in conviction. 1388–1390. 1394, 1395——The system of public prosecution as adopted at Leeds has not been carried out in any other towns in Yorkshire, 1399——The same system prevails at Liverpool and Manchester; how far the same beneficial results have arisen, 1399, 1400——As regards public prosecutors, witness wishes to limit his opinion and his recommendation to what are called in the Bill district agents, 1400.

Arrangements which have been made with a view to obviating the inconvenience and expense of witnesses having to go from Leeds to York Assizes twice, viz. to go over before the grand jury and afterwards to the trial, 1401–1405——There could be no objection, if practicable, to transferring to the higher classes of professional men the conduct of prosecutions, 1407–1412——Grounds for forming the opinion that it is practically impossible, 1407–1412——If, however, this could be done, it would do away with the necessity for the mass of officers contemplated by the Bill, 1412——Way in which the 10th, 11th, and 12th sections of the Bill might be so combined as efficiently to vest in respectable men the power of conducting prosecutions, without the necessity for public prosecutors, 1413–1416.

Public prosecutors might be appointed by the magistrates or by councils of boroughs, 1414–1418. 1423–1431——Government might appoint them, but Government could not have that local information necessary for the appointments possessed by the magistrates, 1419–1421——Way in which witness would suggest the appointments of these district agents should be made, 1422–1433——The clerk to the justices in petty sessions is not the party who ought to have the conduct of prosecutions, 1434, 1435——As far as the Bill is concerned, witness does not carry his views beyond the appointment of competent men to conduct the cases to the point at which the briefs would pass into the hands of counsel, 1436, 1437. 1442–1444.

Barthelemy. Allowance of costs on expenses in the case of Barthelemy adverted to, *Lord Campbell* 690–692.

Binding over to Prosecute. Meaning of the term "binding over to prosecute," *Lord Brougham* 3–6.

Blundell, Mr. Impropriety of the trial of this gentleman for murder adverted to, as a consequence of the want of a public prosecutor, *Lord Brougham* 16, 17.

Report, 1855—*continued.*

Boroughs. Statement for 1853, of the number of prosecutions, with the average cost of each, distinguishing assizes from sessions, in the several boroughs, &c., in England and Wales, *App. p.* 250, 251——Comparison of the average cost of prosecutions in the boroughs, with the counties within which they are situated, *ib.* 253, 254——Comparison of the average cost of prosecutions in eight of the principal boroughs in England, *ib.* 254.

Brett, William Baliol. (Analysis of his Evidence.)—Barrister attending the Liverpool sessions, 2767——Course of practice at criminal trials at Liverpool, 2767 *et seq.*——The town clerk is the criminal prosecuting attorney; he is paid by a very liberal fixed salary; 2767——Way in which he conducts the business with the assistance of one clerk, showing the efficiency with which it is conducted; he may be considered the public prosecutor of the district; 2768-2774——Comparing this system with the system in which the cases are conducted in the southern division of the county, the balance is decidedly in favour of the former system, 2775-2779.

Briefs. See *Counsel. District Agents*, 2.

Brougham and Vaux, The Right Hon. Lord. (Analysis of his Evidence.)—Gave full evidence before a Committee of the House of Commons in 1833 upon the subject now under consideration, 1-3——Sundry objections to the present law and practice as regards prosecutions, 3 *et seq.*——Meaning of the term "binding over to prosecute," 3-6——Hardship in binding over to give evidence on the score of payment of expenses, the same not being allowed till the trial is over, 6. 55——Improper opportunities of wealthy persons to buy off witnesses under recognizances to prosecute, 7.

Anticipated diminution of the mischief of buying up evidence if a public prosecutor were appointed, 8 *et seq.*——Practice of members of the Society of Friends to forfeit their recognizances adverted to, 13——Very great difficulties attendant on a system of a public prosecutor, 16. 28. 84——Experiment proposed by witness and others in 1834, for the action of a public prosecutor in the Central Criminal Court, 16. 28. 84——Success of the plan in Durham, Northumberland, and the West Riding of Yorkshire, of selecting a counsel and giving him the general superintendence of prosecutions, 16.

Evil, through the want of a proper public prosecutor, in innocent persons being improperly put upon trial; case in point; 16, 17——Recommended interference of the prosecutor before the finding of the bill by the grand jury, 18——Propriety of partly dispensing with the institution of the grand jury; how far this body should be entirely abolished considered, 19-26. 32-35——Expediency of the complaining party being still at liberty to prosecute, even though the public prosecutor declined to sanction the proceeding, 21-24.

Practice in Scotland in regard to prosecutions without the sanction of the Lord Advocate or public prosecutor, 23, 24——Circumstances under which the action of the grand jury would be a salutary check upon the public prosecutor, 25-27——Resolutions recently moved by witness in the House of Lords in regard to the appointment of a public prosecutor; legislation thereon promised by the Lord Chancellor, 28.

Practice in all foreign countries to employ a public prosecutor, 29——Recommended department or minister of public justice, 30, 31——Points in which the grand jury is mainly to be objected to, 32-35——Comparison of the number of commitments, of trials, and of acquittals in England and in Scotland, showing the advantage of a public prosecutor in the latter country, 34, 35——Absence of a power of challenge in regard to grand juries adverted to, 35. 53, 54——Very lax operation of the grand jury system in Ireland up to the year 1816 or 1817; 35.

Laxity in commitments would be remedied by a public prosecutor, 36——Importance of the witness or prosecutor appearing before the grand jury, 37——Instances of errors committed by grand juries in finding bills, 37. 40——Expediency of the control of a public prosecutor in cases of indictments for conspiracy and such like, 38-40——For the present the institution of a public prosecutor should be engrafted upon that of the grand jury, 43.

Effect of acquittals as tending to the encouragement of offences, 44-49——Advantage on the whole of the publicity of the examinations before committing magistrates and coroners, 50, 51——Concurrence in the unfavourable views expressed by the Commissioners on Criminal Law in 1845 in regard to the present system of prosecution, 52——Hardship to the poorer classes in the want of a public prosecutor, 55——Objection to all expenses being allowed to witnesses called on prosecutions, 56, 57.

Defect in the absence of means to ensure completeness in the evidence to be produced, 58——The propriety of prosecuting or of not doing so should, in certain cases, be left to the discretion of the public prosecutor, 59-63——Imperfect character of the evidence in a large number of committals by magistrates, 64—— Improvement, if in England as in Ireland, the chairman of sessions were a barrister, &c., 64——Objection to the committing magistrate being one of the magistrates to try the prisoner, 65.

Partial similarity between the system of prosecution in France and in Scotland, 66——Functions of the Procureur du Roi, 66-68——Very defective criminal procedure in

Report, 1855—*continued.*

Brougham and Vaux, The Right Hon. Lord. (Analysis of his Evidence)—*continued.*

France, 69. 73, 74——Authenticity of the preliminary discussions to the Code Napoleon, 70——Difficulty at present to poor persons in bringing forward needful evidence, 71–73——Extent to which the examination of the prisoner by the judge might be desirable, 74–79.

Difficulty in regard to the responsibility of public prosecutors; the same considered; 80. 89–93——The inferiority of any particular bar tends to increase the number of local acquittals, 81, 82——Witness concurs in certain views expressed by Lord Denman in favour of a public prosecutor, 83——Approval of Mr. Phillimore's proposition for local agents or attorneys to collect and methodise the evidence, 85–88. 100——Employment of district attorneys as public prosecutors in America, 86, 87——Consideration of the mode of appointment and of removal of the contemplated district prosecutors, 88–99——When once appointed, the prosecutors should only be removed upon cause shown, and after a full inquiry, 88, 89. 94–99.

Objection to county court judges being employed in the preparation of criminal cases, 101, 102——County court judges might attend quarter sessions, 103——The institution of public prosecutors should at first be tried experimentally, 104——Reference to the employment in Liverpool of a salaried public prosecutor, 105–108——Successful employment of a public prosecutor at Leeds adverted to, 109, 110.

C.

Cameron, Charles Hay. (Analysis of his Evidence.)—Was Legislative Member of the Council of India; has had much experience otherwise in matters of jurisprudence, 1092–1102. 1118–1120——Grounds for considering that a system of a public prosecutor would be a very great benefit to the administration of criminal justice in England, 1103–1113. 1127–1135. 1139——It is properly the duty of a public functionary to conduct criminal prosecutions, 1104. 1109.

The appointment of a public prosecutor would not be injurious to the bar, 1110, 1111. 1136–1138——Approval of a right of private prosecution upon the same principle as in Scotland, 1114–1117——Explanation relative to the criminal law in India, and the system of public prosecution there, 1118–1826——French law upon the subject of public prosecution adverted to and approved of, 1130–1135.

Campbell, Right Honourable Lord, Lord Chief Justice of England. (Analysis of his Evidence.)—Has devoted much attention to the subject of appointing a public prosecutor in England, 637——Beneficial working of the system of public prosecution established in Scotland, 637. 639–641——Advantage if the Scotch system could be adopted in England, 638, 639. 695——Sundry obstacles to the introduction into England of the Scotch system, 638, 639. 654, 655.

Obstacle to a system of public prosecutors in England, on the score of the great expense that would be incurred, 639. 642, 643——Obstacle on the score of patronage, 639. 646–650——Obstacle in interfering with the long-established right of private prosecution, 639——Painful and embarrassing position in which the Attorney-general is sometimes placed, though there not being a public prosecutor, 639——Circumstance of sentences being sometimes compromised and not carried into effect through want of a public prosecutor, 639. 651, 652. 680——Sundry other evils which the appointment of a public prosecutor would remedy, 639. 651, 652. 672. 674. 678. 694–696.

The local officers, or public prosecutors, should be appointed for districts instead of for counties, 644, 645——Much has been done of late years to amend the criminal law, and to prevent compromises, &c., 653——Prosecutions are better conducted in Scotland than in England, 656–658——Belief that certain offences do not at present go without investigation for the want of a public prosecutor, 659–666. 680. 684–693——Readiness of attorneys to undertake prosecutions for poor persons, their expenses being sure to be reimbursed, 664, 665. 687–693.

The appointment of public prosecutors should be vested in the Crown, 667–669. 706——Doubt as to the police in county towns and at sessions abusing their powers, 673——Witness objects to the entire abolition of private prosecutions; class of cases not requiring a public prosecutor; 674–684——Suggestion for requiring the sanction of the Attorney-general to prosecutions for perjury, conspiracy, &c., 674–677——Advantage if bills of indictment were not presented to the grand jury until there has been a previous complaint before a magistrate, 683——Allowance of costs or expenses in the case of Barthelemy, adverted to, 690–692.

Some cases are very badly got up, for want of a public prosecutor, 694–696——Advantage if, in every petty sessional division, one clerk only should be appointed as adviser to the magistrates, and should be so appointed by the sessional division, 697, 698——Satisfactory administration of justice by the magistracy at the present time, 697——Obstacles to giving the judge the power of allowing the costs of witnesses for prisoners, 699–705——District agents, as public prosecutors, should not go out of office with the Attorney-general, 707——Defect in the Scotch system, in the Deputes Advocate going out with the Lord Advocate, 707.

Report, 1855—*continued.*

Capital Offences. Proposed attendance of the district officer at official inquiries, in all capital cases, *Greaves* 282. 342, 343. 386, 387.

See also *Preliminary Investigation*, II.

Carlow County. Letters showing the business done by sessional prosecutor, *App. p.* 245, 246.

Central Authority. There should be a superior counsel in London to whom the district agents should refer for advice in the event of difficulty, *Greaves* 319. 337, 338. 361, 362——Suggestion that the district officer should be in connexion with the Crown counsel in London, who should have the power of stopping improper prosecutions, *ib.* 334-336. 366, 367. 384, 385. 407——Sufficiency of one Crown counsel in London as referee, in cases of difficulty, *ib.* 424, 425——There should be a supreme power in London, but one counsel there would not be sufficient, *Straight* 519, 520——There should be some head in London, say the Attorney-general, if the onerous nature of his duties would allow of it, *Foote* 2960-2962.

See also *Attorney-General. Home Office. Ireland. Magistrates' Clerks*, 2.

Central Criminal Court. Experiment proposed by witness and others in 1834, for the action of a public prosecutor in the Central Criminal Court, *Lord Brougham* 16. 28. 84——Proportion of cases at the Old Bailey, &c., in which attorneys are not employed to prosecute; how such cases are managed, *Straight* 489-492——Excessive amount paid for prosecutions to attorneys at the court, *Hemp* 881, 882——Efficiency with which cases at the court are now prosecuted upon trial by the counsel retained in the case, *Straight* 960.

Evidence showing that in the Central Criminal Court there are many disreputable persons conducting prosecutions, to whom they ought not to be entrusted with reference to the proper conduct of them, *Hobler* 1690-1699; 1787-1789——Practice of the court with regard to witnesses for the defence, *Goodman* 2232-2238——Reference to the fact of counsel not always being employed at the court; inconvenience arising from this, especially to the judge; *Right Hon. J. A. S. Wortley* 2602-2604.

Chairmen of Sessions. Improvement if in England, as in Ireland, the chairman of sessions were a barrister, &c., *Lord Brougham* 64.

Chartist Trials. Course adopted by the Treasury with regard to the Chartist trials in 1848; success with which these prosecutions were conducted; *Reynolds* 1751-1754.

Cheshire. Defects of the system of public prosecutor, as formerly carried out in the county of Chester, *Trafford* 982-990——Statement of the expenses allowed in prosecutions in the county, *Roberts* 1513-1515——Amount paid for prosecutions at sessions and assizes in the years 1850-54, taken from the published accounts, *Roberts, Ev. p.* 120——Copy bill on prosecution for felony received by witness in London 15 June 1855, *p.* 120——Scale of fees in the city of Chester under the Municipal Act, *p.* 121——This scale does not apply to the county, but the scale in the county has been much reduced, *Roberts* 1516-1518——Extraordinary prosecutions are taken into consideration by the recorder or the judge, and extra allowances granted, *ib.* 1419-1525.

Circuits. Average cost of prosecutions in the different counties, arranged according to circuits, *App. p.* 251, 252.

Civil Actions. See *Compromises. Factory Cases. Repairs of Roads and Bridges.*

Clerk of Indictments. Duties of the office of clerk of indictments on the Home Circuit, *Avory* 2241——If counsel are not employed, the clerk draws the indictment, and sees the witnesses himself, *ib.* 2141, 2142.

Clerks to Magistrates. See *Magistrates' Clerks.*

Clerks of the Peace. Way in which the clerks of the peace might be made useful in exercising a supervision over the proposed district agents, *Right Hon. J. A. S. Wortley* 2617-2619. 2659——Difficulties in the way of doing this, from the nature of the appointments of the clerks of the peace, *ib.* 2618, 2619——Power might be given to the clerks of the peace to enter a *nolle prosequi*, subject to the control of the Attorney-general, *ib.* 2619.——*See* also *Counsel. Staffordshire.*

Cockburn, Sir Alexander James Edmund, Her Majesty's Attorney-General, a Member of the Committee. (Analysis of his Evidence.)—Manner in which witness has had a great deal of experience with regard to the administration of the criminal law, 2394——Although upon the whole the present system works well, it is open to serious exception, and is capable of great improvement, 2394——Frequency of cases being brought to trial imperfectly got up, and which break down from the want of some superintending and controlling power to get the evidence together, 2394——Frequency of cases being brought into court which ought not to come there, 2394.

Report, 1855—*continued.*

Cockburn, Sir Alexander James Edmund. (Analysis of his Evidence)—continued.

It would be a most essential improvement on our system to have some superintending authority to see that the evidence is as complete as it can be made before a case is brought to trial, 2394——And also to interpose and stop cases which are sent to trial, which ought not to be so sent, 2394——Cases of collusion and compromise might also be materially diminished if there were some controlling power, 2394-2396——Serious evil arising from the manner in which policemen mix themselves up with prosecutions; reasons for the great zeal evinced by them to obtain convictions; mischievous effects thereof; 2396-2399.

Strong opinion that prosecutions would be more satisfactorily conducted if there were some one to intervene between the apprehension of the prisoner and the bringing of the case into court, 2396——It is an evil that there is not some person to whom the poorest man might go and desire him to conduct his case when an offence has been committed against him, 2400-2402——There should be some one to watch over the case, and see that it is brought to a proper termination, 2400-2402——Natural over-zealousness of a prosecuting attorney to get a conviction, for the sake of his reputation, 2402——A permanent and public officer would have no such desire, but would make the elucidation of truth rather than a professional triumph his object, 2402-2406.

Witness has turned his attention to the remedy by which the evils of the present system might be counteracted, 2408 *et seq.*——Witness's first impression was, that the magistrates' clerks might be made useful agents for the purpose of prosecutions; difficulties in the way of this, particularly as regards their salaries; 2408, 2409——In ordinary commonplace cases the intervention of the magistrates' clerks as prosecutors would not be required, 2408, 2409——Unless there were any great disproportion of expense, witness would prefer district agents to magistrates' clerks, 2408.

High importance of having such a functionary in this country as a minister of justice; the public prosecutor should be responsible to him, and subject to his control; 2410-2413——The district agents should be selected from persons acquainted with the law; reasons why witness would prefer attorneys to barristers; 2414, 2415. 2432-2434—— It might be desirable to have permanent counsel attached to each circuit, 2415—— Mischief arising from the fact that the Attorney-general is now the only person that can direct a *nolle prosequi*; how far this evil might be remedied, 2415-2424.

Private parties should not be prohibited from prosecuting where the agent thought there was no case, but they should do it at their own risk, 2425-2428——The desirable system is one which should neither be within the power of the Attorney-general nor entirely at the caprice of the prosecutor, but something between both, 2427——Grounds for forming the opinion that the additional expense of appointing district agents would not be very great over the present system, 2429——Witness looks upon the suggested change as a matter of great public policy; the question of expense is a secondary consideration, 2430, 2431.

With the assistance of district counsel, the Attorney-general might undertake the supervision of a large number of district agents, 2435-2443——But it is not absolutely necessary to the working of witness's scheme that district counsel should be appointed, 2440——Witness would unhesitatingly put the appointment of the district agents in the hands of the Home Department, 2444, 2445. 2449——Witness's opinion is that the Bill ought to have been introduced by Government; explanation in detail of the reasons why this has not been done; 2446, 2447.

Supposing a minister of justice to be appointed, the appointment of the district agents should be vested in him, 2448——The district prosecutor might attend the grand jury to answer questions, but not take part in their discussions, 2450, 2451——Expenses of prisoners' witnesses might be allowed in certain cases, but under very careful superintendence, 2452, 2453——Further expression of the opinion that some change is extremely important with a view to the pure administration of criminal justice, 2455.

Code Napoleon. Authenticity of the preliminary discussions to the Code Napoleon, *Lord Brougham* 70.

Collusion. Collusion or compromise, in certain cases, between the prosecutor and the defendant, *Hemp* 887-889; *Wilkinson* 2057-2061——Collusion existing among attorneys, justices' clerks, and the police, with a view to augmenting, to the greatest possible extent, the costs of criminal prosecutions, *Preston* 1144——The practices which take place amount to roguery, *ib.* 1145-1147——Opinion that the want of a public prosecutor occasionally leads to collusive prosecutions, *Waddington* 2081, 2082. 2088—— Cases of collusion and compromise might be materially diminished if there were some controlling power, *Sir A. Cockburn* 2394-2396.——*See* also *Compromises.*

Committals. Laxity in commitments would be remedied by a public prosecutor, *Lord Brougham* 36——Imperfect character of the evidence in a large number of committals by magistrates, *ib.* 64——The Bill under consideration should clearly provide that the magistrate

Report, 1855—*continued.*

Committals—continued.

magistrate may have the power of committing without the sanction or advice of the public prosecutor, *Richardson* 854-856.

See also *District Agents*, 2. *Evidence. Metropolis, The. Preliminary Investigation*, I. *Witnesses.*

Committing Magistrate. Objection to the committing magistrate being one of the magistrates to try the prisoner, *Lord Brougham* 65.

Compromises. Improper opportunities of wealthy persons to buy off witnesses under recognizances to prosecute, *Lord Brougham* 7——Anticipated diminution of the mischief of buying up evidence, if a public prosecutor were appointed, *ib.* 8 *et seq.*——Expediency of the control of a public prosecutor in cases of indictments for conspiracy, and such like, *ib.* 38-40.

Cases are sometimes improperly compromised from the want of a public prosecutor, *Greaves* 275, 276; *Hobler* 1689——Prosecutions are often taken up for the sake of a bribe to withdraw them, *Greaves* 314-316——Check proposed, by means of the district agent, upon prosecutions being bought off, *ib.* 367, 368——Insufficiency of a district agent acting with the clerks of petty sessions to meet the evil arising from prosecutions undertaken for the sake of enforcing a civil claim; scandal of such prosecutions; *Straight* 463, 464. 472——Suggestion in order to prevent compromise in the case of prosecutions got up for the sake of enforcing civil claims, *ib.* 473-476. 503-505.

Circumstance of sentences sometimes being compromised and not carried into effect through want of a public prosecutor, *Lord Campbell* 639. 651, 652. 680——Power of the defendant and prosecutor to settle certain cases out of court, *Trafford* 1020-1023——Legal means at present available for preventing compromises in cases of vindictive indictments for conspiracy, &c., *ib.* 1083-1089.

See also *Collusion. Court of Error. Queen's Bench, Court of.*

Compton, Augustus. (Analysis of his Evidence.)—Taxing officer of the northern circuit, excepting the county palatine of Lancaster, and associated with the judges, 2877-2879——Numerous evils in the present system of administering criminal justice resulting from the want of some responsible person to manage prosecutions, 2880 *et seq.*——Objection to the scrambling for prosecutions, to get them out of the hands of constables who are bound over to prosecute, 2881——Evil arising from the multiplication of indictments merely to get costs, 2881——Objection to the plan of presenting indictments to the grand jury without previous inquiry before a magistrate, and even after the case has been dismissed by the magistrate, 2881-2884.

Under the present system the cases being so much in the management of the police, fall into the hands of low practitioners; this is a very great evil; 2882-2894——In almost every case which has come before witness, he has had to diminish the attorney's charges either more or less, 2896——Frequency of the cases of witnesses being defrauded of their proper allowances by attorneys, 2897, 2898——Entrusting policemen to get up cases is a very great evil, 2899-2907——Impossibility, without assistance, of witness paying the witnesses himself; it would be very desirable if such a system could be adopted; 2909-2911.

Connaught Circuit. Suggested increase of salaries to the sessional solicitors, *App. p.* 244.

Consolidated Fund. Evidence showing the enormous increase in the expenses of prosecutions since they have been paid out of the Consolidated Fund; from 1835 to 1846 the Treasury paid the moiety, and since 1846 the whole amount, *Hankins* 2524-2534.

See also *Expense of Prosecutions. Treasury, The.*

Conspiracy, Perjury, &c. Scheme suggested to prevent abuses arising in cases of indictments for conspiracy or perjury, &c., *Greaves* 369-371——Indictments for perjury and conspiracy are often preferred with a view to extort money, *Lord Campbell* 639. 678.

See also *Compromises.*

Constables. Great evil of employing unpaid constables, it leading to their claiming excessive expenses, *Preston* 1216-1227.——*See* also *Police, The.*

Constabulary (Ireland). Material reduction in the expense of administering criminal justice in Ireland, arising from the very efficient constabulary system in that country, *Right Hon. J. Napier* 1916-1922——Extent to which the constabulary are allowed to interfere in criminal matters, *ib.*

Convictions. Much larger proportion of convictions as compared with prosecutions in Scotland than in England, *Lord Campbell* 640, 641——Natural over-zealousness of a prosecuting attorney to get a conviction for the sake of his reputation, *Sir A. Cockburn* 2402——A permanent and public officer would have no such desire, but would make the elucidation of truth rather than a professional triumph his object, *ib.* 2402-2406.

See also *Crime. Failure of Justice. Leeds*, 3. *Staffordshire.*

Report, 1855—*continued.*

Coroners' Inquests. Defect in there not being some person to assist the coroner or magistrate to elicit the facts of the case from the witnesses, *Greaves* 276, 277——Assistance to be given by the proposed district officer to the magistrate or coroner conducting the inquiry, *Greaves* 282——The coroner's inquest is one of the most important tribunals which we have in this country, *Hobler* 1709, 1710.——*See* also *Public Examinations.*

Corrupt Practices. The appointment of a public prosecutor would effect a very considerable remedy for the corrupt practices going on under the present system, *Preston* 1144.

Costs. See *Assaults.* *District Agents*, 3. *Expense of Prosecutions.* *Indictments.* *Prisoners' Witnesses.* *Taxation of Costs.* *Unnecessary Witnesses.*

Counsel. The district agent or public prosecutor should have the power of distributing the briefs, *Hemp* 895–898; *Preston* 1253–1256——Opinion that every case should be conducted by counsel, *Avory* 2254–2260——It might be desirable to have permanent counsel attached to each circuit, *Sir A. Cockburn* 2415——It is not absolutely necessary to the working of witness's scheme that district counsel should be appointed, *ib.* 2440.

The clerk of the peace and the district agent might be left to select the counsel, *Right Hon. J. A. S. Wortley* 2633–2640——Bad economy of not employing counsel in all cases of criminal prosecutions, *ib.* 2649–2651. 2661–2665——The system which the Bill suggests, namely, having counsel at high salaries, would create an enormous increase of expense, *Horn* 2737–2757——At Liverpool it rests with witness to select the counsel to whom he entrusts the conduct of the prosecution; way in which he selects them, *Walter* 2825–2827——Witness would invariably prosecute through counsel, except where the prisoner confesses the crime with which he is charged, *Foote* 2947–2950.

See also *Bar, The.* *Central Authority.* *Central Criminal Court.* *District Agents*, 2. *Ireland.*

Counties. Difficulty of extending the Leeds system of prosecution to counties, *Ellis* 220–228——In ordinary counties one district agent would suffice, *Greaves* 320——In large counties there should be two distinct district agents, *ib.* 332——It should not be optional with the counties to adopt the system, *Foote* 2963–2967.

Statement for 1853, of the number of prosecutions; average cost of each, distinguishing assizes and sessions in the different counties in England and Wales, *App. p.* 248, 249.

See also *District Agents*, 2. 3. *Expense of Prosecutions*, 2. *Taxation of Costs.*

County Allowance. Instance of witness, as attorney for the prosecution in a case of fraudulent bankruptcy, having incurred more expense in getting up evidence than was returned to him out of the county allowance, *Richardson* 873.

County Court Judges. Objection to county court judges being employed in the prosecution of criminal cases, *Lord Brougham* 101, 102——County court judges might attend quarter sessions, *ib.* 103.

Court of Error. Suggestion with a view to prevent compromises in the case of proceedings being removed into the Court of Error, *Straight* 520–525.

Crime. Anticipated increase of convictions, and decrease of crime under witness's plan, *Greaves* 334. 376.——*See* also *Acquittals.* *Capital Offences.* *Convictions.*

Criminal Courts. See *Adjournment of Trials.*

Criminal Law. See *Amendment of the Law.* *India.* *Jersey.*

Crown, The. See *Patronage.*

Crown Counsel. See *Central Authority.* *Ireland.* *Private Prosecutions.*

D.

Davies, Henry E. (Analysis of his Evidence.)—Counsellor in all the Courts of the United States of America, 527–529——Offices filled by witness in the city of New York; considerable extent of his professional experience; 530–532——In each of the fifty-six counties in the state of New York there is a local officer called a district attorney, whose duty it is to attend to all criminal prosecutions in the county; how such duty is carried out, 534–553. 561. 605–613——Nature of the preliminary proceedings on the occurrence of any offence; how the complaint originates, 540–542. 595–597. 615–619——The district attorney generally consults with the committing magistrate, and always attends the grand jury as legal adviser, 543, 544. 546–548. 551–553. 588–590. 602–604.

Report, 1855—*continued.*

Davies, Henry E. (Analysis of his Evidence)—*continued.*

Salary of the district attorney of New York; he has of necessity a large staff, and an assistant attorney under him, 555–561——Course pursued after the grand jury have concurred in finding a bill, 561. 592–594. 606–613——The expenses of the prisoner's witnesses, if poor people, are defrayed by the county; doubt as to fraudulent defences being ever induced thereby, 562–569——The office of district attorney is esteemed a very honourable position, 570——Obstacle to district attorneys becoming members of Congress, 571–573——Responsibility of the district attorneys, 574, 575. 606–608——Public prosecutors have always existed in New York, and in most of the United States, 576–581. 628. 636——Functions of the Attorney-general of the State of New York, 581–586.

The district attorney holds his appointment for three years; how elected; 587. 632–634——Shape in which the charge comes before the grand jury; they personally examine the witnesses; 591–594——Course of action of the magistrates in the city of New York, and in the country, 596–604——The person aggrieved cannot continue the prosecution, unless through the intervention of the district attorney, 609–614——Opinion that criminal business cannot be safely administered without a public prosecutor, 623–626.

Defence of Prisoners. Importance of the district agent being made cognizant of the defence to be set up before the committing magistrate, in order properly to investigate the validity of the same, *Greaves* 289–293. 392, 393.

See also *Central Criminal Court.* *Prisoners' Witnesses.*

Denman, Right Hon. Lord. Witness concurs in certain views expressed by Lord Denman in favour of a public prosecutor, *Lord Brougham* 83.

Depositions. Arrangements by which the depositions taken before the magistrate may be seen by the district agent, if unable to attend at the inquiry, *Greaves* 282. 346–348. 360.

District Agents:

1. *Approval of the Appointment of District Agents or Prosecutors.*
2. *Their Duties and Powers.*
3. *Question of Expense considered.*

1. *Approval of the Appointment of District Agents or Prosecutors;*

Witness is in favour of Mr. Phillimore's proposition for local agents or attorneys to collect and methodize the evidence, *Lord Brougham* 85–88. 100——Suggested appointments of a district officer, whose duty it should be generally to act as prosecutor till the case comes to trial, *Greaves* 281 *et seq.*——Approval of the appointment of district officers responsible for prosecutions, *Straight* 456–458. 493–495——Advantages anticipated from the appointment of a district agent, *Hemp* 878 *et seq.*——More effective administration of justice by the appointment of the proposed district agents, *Straight* 960, 961; *Horn* 2964.

Witness most decidedly recommends the appointment of a public prosecutor, having the country divided into districts, and a public prosecutor attached to each, subject to the Attorney-general, *Preston* 1200–1207——The country would gain, in point of efficiency, in the conduct of public prosecutions, *ib.* 1283——Setting aside all considerations of expense, it would be a great advantage to have a distinct body of men to conduct prosecutions, *Avory* 2387–2390——As regards public prosecutions, witness wishes to limit his opinion and his recommendation to what are called in the Bill district agents, *Barr* 1400——Unless there were any great disproportion of expense, witness would prefer district agents to magistrates' clerks, *Sir A. Cockburn* 2408.

2. *Their Duties and Powers:*

The propriety of prosecuting or of not doing so should in certain cases be left to the public prosecutor, *Lord Brougham* 59–63——Subject to a certain supervision on the part of the district agent, the prosecution should be left in the hands of the attorney, *Greaves* 283–285. 298–300——All aggrieved persons should have access to the district officer without the intervention of an attorney, *ib.* 295–297——The district agent should exercise a superintendence over the attorneys selected to prosecute, *ib.* 298–300——He need not be a person of first-rate professional attainments, *ib.* 322. 324, 325——Witness contends generally for the advantages of his plan of district agents and private prosecutors over that for the appointment of public prosecutors upon the Scotch system, *ib.* 432–443.

The district officer might conduct all prosecutions where the prosecutor makes no valid objection, *Straight* 496, 497. 504, 505——The local officers on public prosecutions should be appointed for districts instead of for counties, *Lord Campbell* 644, 645——Their action should commence as proposed from the period of apprehension, *Markland* 748. 765–769. 784–793——Impracticability of one barrister or prosecutor conducting all the cases at sessions, *Richardson* 794–796. 856–859——The Bill does not sufficiently define the duties of the district agent and of the attorney selected for the prosecution, *ib.* 859–862.

Report, 1855—*continued.*

DISTRICT AGENTS—continued.

2. *Their Duties and Powers*—continued.

859-862. 869-871——Objection to a public prosecutor who should attend in court on each case, *Hemp* 878; *Straight* 961, 966; *Trafford* 982.

Functions proper in a district agent, *Hemp* 893. 914-919——The agents should be appointed for small districts and for petty sessional divisions, and not for counties, *Straight* 960, 961. 963-965——The public prosecutors should be the responsible parties to manage and prepare the evidence, barristers conducting the cases in court the same as at present, *Preston* 1201. 1206, 1207——A public prosecutor would be competent to say what witnesses would be necessary, and what witnesses might be dispensed with, *ib.* 1231-1234. 1243-1245. 1299-1302——Witness does not carry his views beyond the appointment of competent men to conduct the cases to the point at which the briefs would pass into the hands of counsel, *Barr* 1436, 1437. 1442-1444.

A sort of district agent would be the best person to put between the magistrate's clerk and the court; say one person who should take in a hundred of a county, *Roberts* 1488-1495——When such persons should be paid by salary, and when by the county allowance; such parties might continue their general practice as well as conduct prosecutions, *ib.* 1496-1511. 1546——A single officer might take a considerable area if he did nothing else; he should be paid by salary, *Wilkinson* 2053-2056.

Supposing a system of government officers to be established, witness would have them local and paid by salary, *Hankins* 2538——The local prosecutor should only be employed after the commitment; the preliminary investigation should stand as it does at present, *ib.* 2550. 2556, 2557. 2565-2569. 2578——All that witness would recommend would be the appointment of district agents to conduct the prosecutions, *Horn* 2736.

3. *Question of Expense considered:*

Economy anticipated from the appointment of the proposed agents, *Greaves* 333, 334. 375——The expense generally should be borne by the counties, *ib.* 334. 339——Means of defraying the expense of the attorney when the party aggrieved is unable to pay, *ib.* 350. 351.

Great expense of district officers other than magistrates' clerks, *Straight* 456——Obstacles to a public prosecution in England on the score of the great expense that would be incurred, *Lord Campbell* 639. 642, 643——Grounds for concluding that the expense of criminal prosecutions would be diminished under the system of direct agents proposed by Mr. Phillimore, *Markland* 723-728. 744-748. 755. 781.

Increase for some years in the expense of criminal prosecutions if district agents were appointed, *Hemp* 890. 899——The benefit of society would much more than compensate for the increased expense, *ib.* 892——Means of checking the expenditure incurred by the agent, *ib.* 923.

Grounds for concluding that the appointment of an adequate number of public prosecutors would not entail any substantial additional expense upon the country, *Preston* 1282, 1283; *Sir A. Cockburn* 2929——Impossibility of judging whether a new system by adopting district agents would be more or less expensive than the present system, *Waddington* 2092, 2093.

Scale drawn up by witness showing what would be the expense of appointing, say 60, district agents to carry out criminal prosecutions, *Horn* 2688, 2689——Comparison of the costs at which witness put it in this table with the present actual cost, *ib.* 2690-2693——Opinion that the expense between the system of district agents and the present system would be very trifling, *ib.* 2694.

See also *Advance of Expenses. Advocates-depute. Amendment of the Law. Appointment of Prosecutors. Attendance of Witnesses. Attorneys. Bar, The. Central Authority. Clerks of the Peace. Compromises. Coroners' Inquests. Counsel. Counties. Defence of Prisoners. Depositions. Expense of Prosecutions, 3. Failure of Justice. Fees. Grand Juries. Magistrates' Clerks. Metropolis, The. Minister of Justice. New York. Patronage. Preliminary Investigation. Private Practice. Public Nuisances. Public Prosecutors. Responsibility. Salaried Officers. Staffordshire. Subordinate Officers. Tenure of Office. Witnesses.*

District Counsel. See *Counsel.*

E.

Ellice, Thomas Flower. (Analysis of his Evidence.)—Barrister-at-law; is recorder of Leeds; 172, 173. 180——Has not practically considered the subject under consideration, 174, 175——The Leeds system of public prosecution was adopted in consequence of the success of a similar system at Liverpool, 176, 177——Cases were sometimes got up in a very careless manner previously to the present system, 177. 181. 185. 200, 201. 233——The two superintendents of police are in the first instance bound over to prosecute,

Report, 1855—*continued.*

Ellis, Thomas Flower. (Analysis of his Evidence)—*continued.*

177. 183. 230——The cases for prosecution are distributed between two attorneys, who conduct them; reason for two attorneys being appointed; 177. 183. 229–232.

Great improvement effected by the system, which works exceedingly well and satisfactorily, 177. 182–185. 188–191——Complaint occasionally made by prosecutors, 178, 179——Payment of the attorneys by fees, 186——System of prosecution at the assizes adverted to, 192——Mode of arrangement of the cost of prosecution, 193–297——Approval of the attorneys being paid by fees, 198. 199. 240–243——Reference to the state of the Jersey law as founded on the *Grand Costumier* of Normandy, 202–207.

Reference to Mr. Livingston's proposition that certain prescribed questions only should be asked by the judge of the prisoner, 207——Leeds is a corporate town, and has a circuit comprising a population of 200,000; 208–212——The evidence in some of the out-townships, where there are no police, is not so easily got as in other parts of the borough, 213, 214——Nature of the preliminary examinations of the witnesses, 215, 216——Difficulties in extending the Leeds system to counties, 220–228.

Advantage in prosecutions generally being undertaken by appointed salaried prosecutors, rather than, as at present, by magistrates' clerks, or attorneys paid for the job, 235–259——Reference to a statement by the Society of Magistrates' Clerks, in 1845, that the clerks to the petty sessions would be the best persons for public prosecutors, 260–263——Inconvenience occasionally at York in regard to the attendance of witnesses at trials as well as before the grand jury, 264, 265.

[Second Examination.]—In correction of former evidence witness states, that the present system at Leeds was adopted in consequence of the defects of the former system, 526.

Evidence. Defect at present in the absence of means to ensure completeness in the evidence to be produced, *Lord Brougham* 58——Additional evidence for the trial should be prepared to a much greater extent than at present, *Greaves* 278——Some cases are very badly got up for want of a public prosecutor, *Lord Campbell* 694–696——Necessity in very many cases of obtaining further evidence for the trial, in addition to that taken before the magistrates, previously to committal, *Markland* 771–780.

Frequency of cases being brought to trial imperfectly got up, and which break down from the want of some superintending and controlling power to get the evidence together, *Preston* 1208-1212; *Hobler* 1687, 1688; *Sir A. Cockburn* 2394; *Right Hon. J. S. Wortley* 2602; *Horn* 2711——The public prosecutor should point out and direct what evidence is necessary in support of the case, *Preston* 1231–1234. 1243–1245. 1299–1302——It may sometimes happen that prosecutions fail from the evidence not being properly brought before the court; but the clerks to the magistrates generally get them up tolerably well, *Hatton* 1333–1335——It would be a most essential improvement on our system to have some superintending authority to see that the evidence is as complete as it can be made before a case is brought to trial, *Sir A. Cockburn* 2394.

See also *Advance of Expenses. Committals. Failure of Justice. Ignored Bills. Magistrates' Clerks. Police, The,* 1. *Poorer Classes. Preliminary Investigation. Treasury, The. Witnesses.*

Examination of Prisoners. Extent to which the examination of the prisoner by the judge might be desirable, *Lord Brougham* 74–79——Reference to Mr. Livingston's proposition that certain prescribed questions only should be asked by the judge of the prisoner, *Ellis* 207.——*See* also *Public Examinations.*

Expense of Prosecutions:

1. *Generally.*
2. *Increase of Expense since the Costs have been paid by the Treasury.*
3. *How far the proposed Bill would be likely to increase the Expense.*
4. *Opinions that the question of Expense is of Secondary Consideration.*
5. *Variations in the Costs of Prosecutions in different Places.*

1. *Generally:*

Considerable sums of money are spent from the laxity of the present system which might be saved, *Wilkin* 2497–2501——Vast expense to the country by the cases which are committed by the magistrates at the present time, *ib.* 2501–2504——If there were a proper person to examine the cases before they went to the jury this would not be the case, *ib.* 2501–2504——The costs of prosecutions are reduced now to fully one-half of what they were, *ib.* 2510–2516——Witness delivers in certain papers relative to the expenses of prosecutions, *Hankins* 2582, 2583. 2586——Memorandum furnished by Mr. Richard Hankins upon criminal prosecution expenses in England and Wales, *App. p.* 248–254.

2. *Increase of Expense since the Costs have been paid by the Treasury:*

Considerable increase in the expenses of prosecutions since the Treasury have paid the whole amount; want of the supervision which existed when the counties had a moiety

Report, 1855—*continued.*

Expense of Prosecutions—continued.

2. *Increase of Expense since the Costs have been paid, &c.*—continued.

to pay, *Preston* 1194, 1195——Approximate estimate of the expense of the prosecutions conducted by the Treasury in the course of the year, *Reynolds* 1560, 1561. 1593. 1628——In many cases the Treasury get the costs allowed by the county, and only pay the difference between the costs incurred and the costs allowed on taxation, *ib.* 1561–1564——The expense of prosecutions has gone on gradually increasing every year; the Treasury had no means of having a thorough check over the bills of costs, *Hankins* 2535–2537.

3. *How far the proposed Bill would be likely to increase the Expense:*

Unnecessary character of the expense contemplated by the Bill, *Leeman* 959——Material increase of expense if the Bill become law, *Trafford* 1011, 1012——Way in which the principle of the Bill might be less expensively worked out, *Preston* 1246 *et seq.*——The appointment of public prosecutors in various districts, with means by their own staff to conduct cases to trial would be less expensive than the mode contemplated by the Bill; way in which they might be distributed, *ib.* 1246–1252——Grounds for forming the opinion that the additional expense of appointing district agents would not be very great over the present system, *Preston* 1282, 1283; *Sir A. Cockburn* 2429.

Opinion that a great deal of money is now spent that might be saved in the event of having a public prosecutor, *Hankins* 2538–2544. 2549–2551. 2558–2562——The Bill before the House appears to involve a very large outlay in salaries; opinion that the Bill will not lessen the number of prosecutions, or cheapen the mode of conducting the business, *Right hon. J. A. S. Wortley* 2605–2610. 2614–2616——Probable amount of staff, and expense that the system suggested by witness would require, *Foote* 2968.

4. *Opinions that the question of Expense is a secondary Consideration:*

Witness looks upon the suggested change as a matter of great public policy; the question of expense is a secondary consideration, *Sir A. Cockburn* 2430, 2431——Witness would say that the English system is more expensive than the system in Ireland, *Right hon. J. Napier* 2459, 2460——The right plan is, to have the work done by competent and proper persons, fairly paid; it is not a mere question of expense, *ib.* 2461.

5. *Variations in the Costs of Prosecutions in different Places:*

Mode in which the expenses of prosecutions in the country are defrayed, *Reynolds* 1601, 1602——Necessarily different amount in different places of the costs allowed for prosecutions, *Trafford* 1014–1017——Great variation in the costs of prosecutions in different counties; practicability of assimilating them; *Preston* 1187–1190——Evidence relative to the cost of prosecutions at Liverpool, as regards the establishment of the office of public prosecutor; how far it may be considered to be below the cost in other parts of the county of Lancaster, *Walter* 2828–2847——Statement showing the average expense of prosecutions at assizes and sessions in the year 1833, *Horn* 2706.

See also *Advance of Expenses. Attorneys. Boroughs. Central Criminal Court. Cheshire. Circuits. Collusion. Constabulary (Ireland). Counsel. District Agents*, 1. 3. *Gaand Juries. Indictments. Ireland. Liverpool*, 2. 3. *Magistrates' Clerks. Manchester. Northern Circuit. Petty Offences. Police, The*, 3. *Poorer Classes. Prisoner's Witnesses. Ratepayers. Staffordshire. Taxation of Costs. Treasury, The. Unnecessary Witnesses. Witnesses.*

Experiment. The institution of public prosecutors should at first be tried experimentally, *Lord Brougham* 104.——*See* also *Central Criminal Court.*

Extortion. Frequent failure of justice from want of a person to make preliminary investigations; abuse also of justice for purposes of extortion; *Wilkinson* 1990–1994. 2022–2025.——*See* also *Conspiracy, &c. Grand Juries. Staffordshire.*

F.

Factory Cases. In factory cases of prosecution the Treasury have enforced the Act of Parliament by civil action, but not in the case of mines, *Reynolds* 1668.

Failure of Justice. Class and number of cases which now go uninvestigated, for the want of a proper person to look after them, *Greaves* 342–345——Belief that the more serious offences do not at present go without investigation for the want of a public prosecutor, *Lord Campbell* 659–666. 680. 684–693——Witness does not consider that failure of justice does now take place, or that district agents are necessary, *Trafford* 1019. 1036. 1062–1076——Failure of prosecutions, which ought to end in conviction, arising from the want of some competent person to get up the case and provide the necessary evidence, *Preston* 1208–1212; *Hobler* 1687, 1688; *Sir A. Cockburn* 2394; *Right hon. J. A. S. Wortley* 2602; *Horn* 2711——As regards any general failure of justice, witness

is

Report, 1855—*continued.*

Failure of Justice—continued.

is only surprised, knowing the irregularity of the system, at there being so few complaints, *Waddington* 2128——Doubts as to there being any need of additional assistance, with a view to investigating those prosecutions which are not taken up, *ib.* 2135–2137——Number of prosecutions which escape being fully entered upon, from there not being some public officer to resort to, *Foote* 2928, 2929. 2933–2936.

See also *Acquittals.* *Amendment of the Law.* *Evidence.* *Police, The,* 2. *Treasury, The.*

Fees. Objection to magistrates' clerks being paid by fees, *Straight* 460–462——Witness and Mr. Rawson at Leeds are not paid by salary; regulation as to their fees; *Markland* 715. 719——The proposed district agents might be remunerated upon the same principle as those now conducting prosecutions, *ib.* 758–764.

See also *Home Circuit.* *Magistrates' Clerks,* 2. 3. *Salaried Officers.* *Taxation of Costs.*

Foote, William. (Analysis of his Evidence.)—Attorney; has paid very considerable attention to the subject of criminal prosecutions; is collecting materials for a work on the subject, 2912–2915——Return witness would suggest should be moved for relative to the expenses of prosecutions, 2916, 2917——Failure of justice frequently arising from the want of a responsible public prosecutor to get up cases properly, 2918–2922——It is a very great evil that magistrates have not the power of allowing the expenses of witnesses unless a committal takes place, 2922–2924.

Reference to a series of forms drawn up and adopted by witness, by which a prosecution may be conducted in a more orderly and less expensive manner than at present, 2924–2927——Number of prosecutions which escape being fully entered upon from there not being some public officer to resort to, 2928, 2929. 2933–2936——Extent to which policemen must necessarily be engaged in prosecutions, 2930–2932——Witness is strongly in favour of abolishing the grand jury system at quarter sessions, though not at assizes; distinction witness draws between the two, 2937–2946——He would invariably prosecute through counsel, except where the prisoner confesses the crime with which he is charged, 2947–2950.

Witness has read the Bill which is before the Committe; opinion that it would not be advisable to carry out the whole system as proposed therein, 2951, 2952——In England the nucleus already exists of a system of prosecution which might be greatly improved and carried out, 2953——Approval of the plan which has been suggested of making the clerks to the justices the assistants to a Crown officer in conducting or getting up prosecutions, 2953.

Plan which witness has drawn up relative to public prosecutors submitted to the Committee; statement of the details of this plan, 2953——If the magistrates' clerks were made the district agents, they should be paid by salary, 2954–2960——There should be some head in London, say the Attorney-general, if the onerous nature of his duties would allow of it, 2960–2962——It should not be optional with the counties to adopt the system, 2963–2967——Probable amount of staff and expense the system would require, 2968.

Foreign Countries. Practice in all foreign countries to employ a public prosecutor, *Lord Brougham* 29.

Forms. Reference to a series of forms drawn up and adopted by witness, by which a prosecution may be conducted in a more orderly and less expensive manner than at present, *Foote* 2924–2927.

France. Employment of a public prosecutor in France adverted to, *Lord Brougham* 29——Partial similarity between the system of prosecution in France and in Scotland, *ib.* 66——Functions of the Procureur du Roi, *ib.* 66–68——Very defective criminal procedure in France, *ib.* 69. 73, 74——Independence of the French bar adverted to, *Lord Campbell* 648–650——French law upon the subject of public prosecution adverted to and approved of, *Cameron* 1130–1135.——*See* also *Scotland.* *Minister of Justice.*

Frivolous Prosecutions. Opinion that not many frivolous prosecutions are carried on through the want of a public prosecutor, *Straight* 463. 470, 471——Check upon frivolous prosecutions by the appointment of public prosecutors, *Markland* 727; *Hemp* 899, 900——Belief that frivolous prosecutions do not now take place, *Trafford* 991, 992——Frivolous and groundless prosecutions are frequently brought, *Preston* 1148, 1149; *Sir A. Cockburn* 2394——A great number of frivolous prosecutions are brought, but witness does not see how the magistrates' clerks are to help this, *Avery* 2367, 2368——There should be some superintending authority to interpose and stop cases which are sent to trial which ought not to be so sent, *Sir A. Cockburn* 2394.

See also *Amendment of the Law.* *Mint, The.* *Manchester.* *Staffordshire.*

G.

Gaming-houses and Brothels. In cases of indictments for gaming-houses and brothels the law is at present shamefully perverted, *Lord Campbell* 639. 672. 678.

Gaolers. At Leeds it is not the duty of the gaoler to communicate with the clerk of the peace in regard to evidence of previous conviction, *Markland* 779——The gaoler at Leeds always communicates with witness as deputy clerk of the peace, in regard to previous convictions, *Richardson* 862.

Goodman, Samuel Robert. (Analysis of his Evidence.)—Has been chief clerk to the Lord Mayor at the Mansion House since 1843; during that period witness's whole time has been devoted to criminal affairs, 2147–2149——Instances of large expenses at assizes for witnesses in cases of petty theft; suggested expediency of giving a magistrate summary jurisdiction in small affairs of this kind, 2150–2160——Great frauds practised upon witnesses in paying them their expenses; suggestions for remedying the evil, 2161, 2162——Instances showing that attorneys are sometimes obliged to advance monies in prosecutions and are out of pocket thereby, but such cases are rare, 2162–2176.

Desire of many persons to keep the conduct of their case in the hands of their own solicitor, 2177–2179——How far in common cases police officers are the most proper persons to be bound over to prosecute, 2179–2218——In important cases a solicitor is almost invariably employed, 2183——Opinion that many attorneys in London attend the police offices for the purpose of getting up prosecutions, 2219–2224——There is no practical impediment to paying to each witness his own expenses; practice adopted at the Central Criminal Court, 2228–2232——Practice of the Central Criminal Court with regard to witnesses for the defence, 2232–2238.

Government, The. Resolutions recently moved by witness in the House of Lords in regard to the appointment of a public prosecutor; legislation thereon promised by the Lord Chancellor, *Lord Brougham* 28——The Bill ought to have been introduced by Government; explanation in detail of the reasons why this has not been done, *Sir A. Cockburn* 2446, 2447.——*See* also *Appointment of Prosecutors. Patronage.*

Grand Juries. Propriety of partly dispending with the institution of the grand jury; how far this body should be entirely abolished, considered, *Lord Brougham* 19–25. 32–35——Circumstances under which the action of the grand jury would be a salutary check upon the public prosecutor, *ib.* 25–27——Points in which the grand jury is mainly to be objected to, *ib.* 32–35——Absence of a power of challenge in regard to grand juries adverted to, *ib.* 35. 53, 54——Importance of the witness or prosecutor appearing before the grand jury, *ib.* 37——Instances of errors committed by grand juries in finding bills, *ib.* 37–40——For the present the institution of a public prosecutor should be engrafted upon that of the grand jury, *ib.* 43.

Objections to the abolition of the grand jury, *Greaves* 278——Very awkward position in which the grand jury are placed in regard to finding or throwing out bills, *ib.*——Proposition that the district agents attend before the grand jury, explain the charge, and see that the proper witnesses are called; precedents hereon, *ib.* 286. 357–359——Proposition for preventing undue bills being brought before the grand jury, *ib.* 377–383.

In political cases affecting the community a grand jury is indispensable, *Straight* 502——Advantage if bills of indictment were not presented to the grand jury until there has been a previous complaint before a magistrate, *Lord Campbell* 683; *Leeman* 960——Advantage generally of some professional person attending with the bills before the grand jury, *Markland* 805, 806; *Preston* 1284–1288——Concurrence in the proposition for the grand jury having opportunity to consult some professional person in cases of difficulty, *Leeman* 957–959——Advantage of the grand jury availing themselves of the advice of the attorney for the prosecution, *Trafford* 1077.

Strong opinion in favour of the grand jury system; objections to having an officer vested with power of examining witnesses upon oath in the preparation of a prosecution, in lieu of the examination before the grand jury, *Hobler* 1700–1708. 1810–1815——No great advantage would arise from the public prosecutor assisting the grand juries, *ib.* 1797.

There would be no objection to the district agent assisting the grand jury in criminal business; importance of the functions of the grand jury; witness would be sorry to see the system done away with; *Right hon. J. Napier* 1955–1962——Nature of the assistance given by witness when the bills are before the grand jury, *Markland* 802–804——Witness is not aware of any abuse from the power of the grand jury to find a bill without the commitment of a magistrate, *Trafford* 1077–1083.

The district prosecutor might attend the grand jury to answer questions, but not take part in their discussions, *Sir A. Cockburn* 2450, 2451——Way in which, from the want of some efficient persons, indictments and presentments by the grand jury are made the means

Report, 1855—*continued.*

Grand Juries—continued.

means of oppression and extortion, *Right hon. J. A. S. Wortley* 2602——The grand jury system is one of the great difficulties in diminishing the expenses of prosecutions, *ib.* 2674——Witness is strongly in favour of abolishing the grand jury system at quarter sessions, though not at assizes; distinction drawn between the two; *Foote* 2937–2946.

See also *Attendance of Witnesses. Ignored Bills. Indictments. New York. Police, The. Preliminary Investigation,* II.

Grand Jury (Ireland). Very lax operation of the grand jury system in Ireland up to the year 1816 or 1817, *Lord Brougham* 35.

Greaves, Charles Sprengel, Q. C. (Analysis of his Evidence.)—Has had considerable experience in regard to prosecutions under the criminal law, 266–273——Great defect in the present law in there being no means of originating inquiries in cases of felony, &c., unless there be some persons suspected who may be charged before the magistrates, 274——Defect also in charges being often dropped or compromised before trial, 275, 276——Defect also in there not being some person to assist the coroner or magistrate to elicit the facts of the case from the witnesses, 276, 277.

Attorneys should be employed in all cases, and should, under certain circumstances, be selected by the magistrate or district agent to conduct the case to the end, 277, 278. 298–300. 349. 363–365——It is very objectionable that constables or police authorities should be bound over to prosecute, 277, 278——In certain cases the magistrate should have the option of appointing an attorney to conduct the prosecution, 278——Additional evidence for the trial should be prepared to a much greater extent than at present, 278.

Objection to the abolition of the grand jury, 278——Very awkward position in which the grand jury are placed in regard to finding or throwing out bills, 278——Belief as to bills being almost always ignored through the evidence not being properly extracted from the witnesses, 278–280——Very rare instances of cases going to a subsequent assize in the event of the grand jury having previously ignored the bill, 281.

Suggested appointment of a district officer whose duty it should be generally to act as prosecutor till the case comes to trial, 281 *et seq.*——Advantage of the proposed officer in making investigations on the occurrence of any offence the perpetrator of which is not known or suspected, 282. 342, 343——Proposed attendance of this officer at official inquiries in all capital cases, 282. 342, 343. 386, 387——Assistance to be given by the district officer to the magistrate or coroner conducting the inquiry, 282——Arrangement by which the depositions taken before the magistrate may be seen by the district agent, if unable to attend at the inquiry, 282. 346–348. 360——Check to be exercised by him in regard to the witnesses and the evidence to be produced, 282–285. 301–306. 354–357. 392——Subject to a certain supervision on the part of the district agent, the prosecution should be left in the hands of the attorney, 283–285. 298–300.

Witness is opposed to the appointment of a public prosecutor; grounds for objecting thereto, 286. 289. 306——Proposition that the district agent attend before the grand jury, explain the charge, and see that the proper witnesses are called; precedents hereon, 286. 357–359——Importance of the district agent being made cognizant of the defence to be set up before the committing magistrate, in order properly to investigate the validity of the same, 289–293. 392, 393.

Cases of maltreatment of children or servants, &c. might very properly be taken up by the district officer, 294——The prosecution of public nuisances might also be entrusted to him, 294——All aggrieved persons should have access to the district officer without the intervention of an attorney, 295–297——The district agent should exercise a superintendence over the attorneys selected to prosecute, 298–300.

Responsibility proposed respectively in the district agent and in the attorney prosecuting, 302–304——Reluctance at present on the part of attorneys to bring forward witnesses really necessary, for fear of being blamed by the judge for incurring too much expense, 304, 305——Check upon the operations of low attorneys by the plan proposed by witness, 307——Great evil in it being often necessary for the attorney to raise money to conduct prosecutions, by which, moreover, he is frequently out of pocket, 308–313——Prosecutions are often taken up for the sake of a bribe to withdraw them, 314–316.

Without reference to details, there certainly should be some person responsible for the conduct of criminal prosecutions, 317, 318——There should be a superior counsel in London, to whom the district agents should refer for advice in the event of difficulty, 319. 337, 338. 361, 362——In ordinary counties one district agent would suffice, 320——He should not be prohibited from private practice, provided always the duties of his office were not interfered with, 321–323——He need not be a person of first-rate professional attainments, 322. 324, 325——His salary should be about 500*l.* a year, 326.

The appointment of the district officer should rest with Government, 327, 328. 339——His tenure of office should be during good conduct, 329–331——In large counties there should be two distinct district agents, 332——Economy anticipated from the appointment

Report, 1855—*continued.*

Greaves, Charles Sprengel, Q. C. (Analysis of his Evidence)—*continued.*

of the proposed agents, 333, 334. 376——The expense should be borne by the counties, 334. 339——Anticipated increase of convictions and decrease of crime under witness's plan, 334. 376——Suggestion that the district officer should be in connexion with the Crown counsel in London, who should have the power of stopping improper prosecutions, 334-336. 366, 367. 384, 385. 407——Subordinate officers under the district officers are not necessary, 340, 341.

Class and number of cases which now go uninvestigated for the want of a proper person to look after them, 342-345——Means of defraying the expense of the attorney where the party aggrieved is unable to pay, 350, 351——Except in capital cases, the district prosecutor would not take the initiative, 352, 353——Objection to district counsel to assist the district agents, 361, 362——Check proposed by means of the district agent upon prosecutions being bought off, 367, 368.

Scheme suggested to prevent abuses arising in cases of indictments for conspiracy or perjury, 369-371——Suggestion that cases with regard to the repairs of roads and bridges be turned into civil cases, 372——Effect of the prospect of costs in influencing prosecutions for assault, &c. 373-375——Propositon for preventing undue bills being brought before the grand jury, 377-383——Suggestion that the court have a discretionary power to grant or withhold the costs of witnesses for the defence, 388-392. 395. 398-403.

Great importance of avoiding the evil of not producing necessary witnesses; cases in point; 394——The district agent should not anticipate the payment of witnesses' expenses, 395-399——Practice in the State of New York in regard to the summoning and attendance of witnesses, 401——Grounds for the proposition that where the Crown counsel and the district officer stop the prosecution, the party feeling aggrieved should not be allowed to proceed at his own risk, unless he obtain the sanction of the court, 404-423——Sufficiency of one Crown counsel in London as referee in cases of difficulty, 424, 425——Reasons for objecting to barristers on circuit as district agents, 426-431.

In conclusion, witness contends generally for the advantages of his plan of district agents and private prosecutors over that for the appointment of public prosecutors upon the Scotch system, 432-443——Grounds upon which he objects to the cases being altogether taken from the private prosecutors, 435-443.

H.

Hankins, Robert. (Analysis of his Evidence.)—Is called law clerk in the Treasury; duties of the office, 2522——Evidence showing the enormous increase in the expenses of prosecutions since they have been paid out of the Consolidated Fund; from 1835 to 1846 the Treasury paid the moiety, and since 1846 the whole amount; 2524-2534——The expense has gone on gradually increasing every year; the Treasury had no means of having a thorough check over the bills of costs; 2535-2537——Supposing a system of Government officers to be established, witness would have them local, and paid by salary, 2538.

Grounds for forming the opinion that a great deal of money is now spent that might be saved, in the event of having a public prosecutor, 2538-2544. 2549-2551——Frequency of attorneys bringing witnesses who are not wanted, especially since the establishment of the local police, 2545. 2554, 2555——Saving which has been effected since the Treasury have sent down officers to assist in taxing the costs, 2546-2548——Way in which the accounts from the country are sent up, checked, and paid, 2552, 2553.

The local prosecutor should only be employed after the commitment; the preliminary investigation should stand as it does at present, 2550. 2556, 2557. 2565-2569. 2578——If a private prosecutor chose to go on after the decision of the public prosecutor to the contrary, he should do so at his own risk and cost, 2550, 2551. 2557——Great saving which would be effected if only one attorney managed the cases at assizes or sessions instead of the present large number, 2558-2562——Still this would be shutting out all the profession, 2558. 2571-2574.

Advantage of a scheme by which magistrates' clerks should be paid uniform fees; direct interest they have at present in multiplying prosecutions; 2564. 2570——If a poor man had not the means of prosecuting, witness would give the Crown prosecutor the power of taking the case up for him, 2579-2581——Delivers in certain papers relative to the expense of prosecutions, 2582, 2583. 2586——Evidence relative to the system adopted by the corporation of Liverpool, of having one attorney to conduct all the cases; saving effected thereby; how far this plan has worked efficiently; 2587-2598.

Hankins, Mr. Memorandum upon criminal prosecution expenses in England and Wales, furnished by Mr. Hankins, *App. p.* 248-254.

Hatton, Captain J. H. (Analysis of his Evidence.)—Chief of the constabulary at Stafford; has had opportunities of watching the working of the criminal system there; 1309-1312——The system of binding over policemen as prosecutors is very objectionable, 1313-1318——

Report, 1855—*continued.*

Hatton, Captain J. H. (Analysis of his Evidence)—*continued.*

1318——Reference to the former disgraceful conduct of many attorneys in Stafford for the purpose of obtaining the management of prosecutions, 1319-1324. 1336——Opinion that many prosecutions are improperly got up, merely for the purpose of receiving the money, particularly in towns, 1325-1330.

Under the present system it is necessary that great discretion should be vested in the police, 1331, 1332——It may sometimes happen that prosecutions fail from the evidence not being properly brought before the court; but the clerks to the magistrates generally get them up tolerably well, 1333-1335——Return of the result of cases tried at Stafford, at assizes and quarter sessions, from April 1850 to March 1851, showing the number of convictions, the number of acquittals, and the number of cases in which no true bill found, 1337-1347——Though the acquittals, compared with the convictions, stand very high at the assizes, this is not the case at quarter sessions, 1343, 1344.

In Stafford, the solicitors are not paid at quarter sessions; to this may be attributed the fact that many trumpery cases are kept back from quarter sessions and sent to the assizes, 1348-1362——Evils arising from the police having a pecuniary interest in prosecutions; suggestions for remedying these evils; 1364-1369——Frequent occurrence of offences for which there would be no prosecution if the police did not take them up, 1370-1373.

[Second Examination.]—Evidence showing in the three years 1852, 1853, and 1854 the number of persons prosecuted from Stafford at assizes and quarter sessions, and the cost to the county per head, 1445-1462——At assizes the cost has not been less than 16 *l.* a head, 1462——Steps adopted in Staffordshire to prevent fraud in the case of paying the expenses of witnesses, 1462-1467.

Hemp, James. (Analysis of his Evidence.)—Assistant clerk of arraigns at the Central Criminal Court and deputy clerk of assize on the Oxford Circuit, 874, 875——Evil at present in the want of responsibility on the part of those who conduct the prosecutions, 878-880——Want of uniformity in the general practice in regard to indictable offences, 878——Absence of advantage in the appointment of a public prosecutor to conduct the case in court, 878——Advantages anticipated from the appointment of a district agent, 878 *et seq.*

Great expense to which private prosecutors are now put, especially in London, 881-883——Evil in cases being taken up by speculative attorneys; extent to which carried; 883-886——Collusion or compromise occasionally in certain cases between the prosecutor and the defendant, 887-889——Increase for some years in the expense of criminal prosecutions if district agents were appointed, 890. 899——Great public advantage of district agents, especially in the county of Stafford, 890, 891. 939. 941——The benefit to society would much more than compensate for the increased expense, 892.

Functions proper in a district agent, 893. 914-919——Objection to a barrister being the agent, 894. 924-927. 943-947——The agent should have the choice of counsel, 895-898——Defect in the Mint system of prosecution, 897. 943——Check upon frivolous prosecutions under a system of public prosecutors, 899, 900——Propriety of private parties still having a right to prosecute, 903-905——Repayment generally to attorneys of the witnesses' expenses advanced by them, 906-911——Expediency of responsibility for the proper conduct of all criminal prosecutions, 912. 924. 939-941.

Discretion advisable in the judge as to allowing the expenses of prisoners' witnesses, 920-922——Means of checking the expenditure incurred by the district agent, 923——Witness does not object to the proposal that magistrates' clerks be employed to get up the evidence, and that in cases of difficulty they apply to the district agent, 930-936——Reduction in the number of prosecutions if the magistrates' clerks be paid by salary, which witness prefers to payment by fees, 936-938——Prejudice to the independence of the bar if barristers be appointed district agents, 944-947.

Hobler, Francis. (Analysis of his Evidence.)—Solicitor of from twenty-five to thirty years' standing, 1670-1671——Has during that period been largely engaged in criminal prosecutions, 1672-1674——Amendments which might be beneficially made in the present system of administering criminal justice, 1675 *et seq.*——With the view to doing away with the remarks that are made of cases not being properly taken up at the police courts, some solicitor should be attached to those courts, 1678-1683.

Many prosecutions are brought to trial by the police; interference, in consequence, with the duties of the professional man, and power and authority given to the police thereby which is inconsistent with their duties, 1684-1686——Failure of prosecutions which ought to end in conviction, arising from the want of some competent person to get up the case, 1687, 1688——Cases are sometimes improperly compromised from the want of a public prosecutor, 1689——Evidence showing that in the Central Criminal Court there are many disreputable persons conducting prosecutions to whom they ought not to be entrusted with reference to the proper conduct of them, 1690-1699. 1787-1789.

Strong opinion in favour of the grand jury system; objections to having an officer vested with the power of examining witnesses upon oath in the preparation of a prose-

Report, 1855—*continued.*

Hobler, Francis. (Analysis of his Evidence)—*continued.*

cution, in lieu of the examination before the grand jury, 1700–1708——The coroner's inquest is one of the most important tribunals which we have in this country, 1709, 1710——Although upon the whole the police as a body act very fairly, it would be derogatory to the justice of this country that the conduct of prosecutions should be thrown into their hands, 1711–1715. 1774–1776——Witness has not seen much difference in the mode of conducting prosecutions down to the time of trial between the cases in the country and those in London, 1718–1720.

Losses witness has sustained in the course of his professional duty by having to make advances in getting up prosecutions, 1725–1737——Great disadvantage which would arise to a poor man who had received an injury if such advances were not made, 1727, 1728——Frequency of disputes as to who should defray the expenses of prosecutions in cases where children have been ill-used; failure of justice in consequence, 1738–1740.

Practical remedies so far as the metropolis is concerned, which have suggested themselves to witness's mind for the evils in the system of which he complains, 1742 *et seq.*——Suggestion that the metropolis should be divided into districts, and a solicitor appointed to each of those districts; the magistrates sending the depositions to such solicitor, 1743–1749. 1760. 1765–1771——Suggestion also for the appointment of a superintendent barrister, to whom the magistrate might refer to decide whether the case should be sent for trial or not, 1743——Witness would not alter that part of the preliminary investigation which takes place at the police stations, 1750–1760.

Although the clerks to the police magistrates are not professional men, they are generally well acquainted with their business; no great advantage would arise from their being professional men, 1761–1764——As far as committal goes, the public have the best guarantee that justice is exercised well in the metropolis, 1765——District agents would not be so necessary in the country as in London; the clerks to the magistrates in the country being nearly always attorneys, 1772, 1773.

Supposing the provisions of the Bill to be adopted, the metropolis should be divided into six districts, a solicitor being attached to each, 1777–1782——They should receive an adequate remuneration, and put aside their private business, 1783——It would not be an unfair salary to give them 1,000*l.* a year at the lowest, 1784–1786——It is a most serious injury to the public to let the police interfere so much as they do in cases of prosecutions, 1790–1796.

No great advantage would arise from the public prosecutor assisting the grand juries, 1797——In certain cases it might promote the interests of justice to allow expenses to witnesses for a prisoner; way in which these expenses might be allowed and settled, 1798–1809——Further opinion in favour of the grand jury system, 1810–1815.

Home Circuit (*England and Wales*). Amount of fees paid to counsel in regard to prosecutions on the Home Circuit at Lent Assizes in 1853; *Straight* 960.

Home Circuit (*Ireland*). Suggested increase of salaries to the sessional solicitors, *App. p.* 244.

Home Office. Witness has no knowledge of the grounds generally upon which the Secretary of State directs the Treasury to prosecute; they are simply directed so to do; *Reynolds* 1579, 1580. 1587, 1588——Principle upon which the Home Office directs prosecutions by the Treasury in particular cases; how far they take them up spontaneously; *ib.* 1596–1598——Witness presumes that the reason why the more important cases are taken up by the Home Office is, that it is felt that the prosecution would be more efficiently conducted by some public authority than by the private prosecutor, *ib.* 1599, 1600——The Treasury never prosecutes without instructions from the Secretary of State, *ib.* 1621–1623. 1627.

System on which the Home Office proceeds in granting legal aid when applied to by the police, *Waddington* 2073——It is only granted in case of violent assaults on the police, and in cases of murder and manslaughter, *ib.* 2073.

See also *Appeals.* *Appointment of Prosecutors.* *Police, The,* 2. *Treasury, The.*

Horn, Henry George. (Analysis of his Evidence.)—Has been clerk of arraigns on the Western Circuit since the year 1820; is taxing officer for the criminal briefs at Liverpool and Lancaster, 2675–2679——Has had abundant opportunities of witnessing the proceedings in the administration of criminal justice for the last 35 years, 2680——Evils which strike witness in the present system, 2680 *et seq.*——Advantage of having a paid officer to conduct prosecutions instead of attorneys, 2681.

Anxiety of attorneys in the north of England, where the remuneration is high, to get prosecutions, 2682——A low scale of remuneration tends to throw it into the hands of low and improper practitioners, 2682–2687——Scale drawn up by witness, showing what would be the expense of appointing, say sixty district agents to carry out criminal prosecutions,

Report, 1855—*continued.*

Horn, Henry George. (Analysis of his Evidence)—*continued.*

cations, 2688, 2689——Comparison of the cost at which witness puts it in this table with the present actual cost, 2690–2693.

The result of witness's calculation and experience is that the expense between the system of district agents and the present system would be very trifling, 2694——But the efficiency would be greatly increased, 2694——Difficulties in the way of appointing the magistrates' clerks as district agents, 2694–2699——Generally speaking there is no great inefficiency in the manner in which cases are brought into court, 2700, 2701——Extent to which an official control over prosecutions would probably lessen them; and great probable reduction in the expense, especially as regards unnecessary witnesses, 2701–2706.

Statement delivered in showing the present allowances to attorneys on the different circuits, 2701——Statement showing the average expense of prosecutions at assizes and sessions in the year 1833; 2706——Possibility at assizes of taking particular cases on particular days to prevent the too long attendance of witnesses; this system is adopted at Liverpool with good effect, 2707–2709——One evil of the present system is that imperfect prosecutions are sometimes brought up, 2710–2713. 2725.

Failure of prosecutions from want of evidence which might be brought; this is another evil, 2711——Another evil is that cases often fall into the hands of low practitioners, 2712——A further evil is that witnesses are often brought who are unnecessary, 2713——It is not desirable that magistrates' clerks should have a direct pecuniary interest in recommending prosecutions, 2726–2729——Impropriety of the practice of what may be called scrambling for prosecutions among attorneys, 2730–2733.

Evils of leaving the conduct of prosecutions to policemen, 2734——All that witness would recommend would be the appointment of district agents to conduct the prosecutions, 2736——The other system which the bill suggests, namely, having counsel at high salaries, would create an enormous increase of expense, 2737–2757——Grounds for forming the opinion that the proposed system would act detrimentally to the bar, 2757–2766.

I.

Ignored Bills. Belief as to bills being almost always ignored through the evidence not being properly extracted from the witnesses, *Greaves* 278–280——Rarity of instances of cases going to a subsequent assize, in the event of the grand jury having previously ignored the bill, *ib.* 281.

Imperfect Prosecutions. One evil of the present system is that imperfect prosecutions are sometimes brought up, *Horn* 2710. 2713–2725.

India. Explanation relative to the criminal law in India, and the system of public prosecutions there, *Cameron* 1118–1126.

Indictments. Inconvenience of the large number of separate indictments against the same prisoner; great increase of expense occasioned thereby, *Preston* 1167, 1168——Opinion that the power of going before the grand jury to prefer an indictment is open to the greatest possible abuse, *Right Hon. J. A. S. Wortley* 2620–2624——Evils arising from the multiplication of indictments merely to get costs, *Compton* 2881——Objection to the plan of presenting indictments to the grand jury without previous enquiry before a magistrate, and even after the case has been dismissed by the magistrate, *ib.* 2881–2884.

See also *Clerk of Indictments.* *Grand Juries.*

Innocent Persons. Evil, arising from the want of a proper public prosecutor, in innocent persons being improperly put upon trial; case in point; *Lord Brougham* 16, 17.

Ireland. Impression that the Irish system of prosecution does not work satisfactorily, *Hemp* 946, 947——Detail of the system of conducting prosecutions as it now exists in Ireland, *Right Hon. J. Napier* 1818——At the assizes they are always conducted by the Crown solicitors; way in which carried out, *ib.*——At the sessions they are conducted by what are termed sessional prosecutors, *ib.*——Way in which carried out by the sessional prosecutors, *ib.*——How far the system of sessional prosecutors might be improved, *ib.* 1820–1824——Insufficiency of the pay of the sessional prosecutors; liberal pay of the Crown solicitors, *ib.* 1825–1830. 1950.

By the system adopted in Ireland, from the time of the committal of the crime till the verdict of the jury is given, the case is in the charge of some public officer, *Right Hon. J. Napier* 1842–1846——Generally speaking, the system of prosecution is not a local system, although the sessional prosecutors are local officers, *ib.* 1847. 1927–1930——The experiment has been tried of making local persons Crown solicitors, instead of having one Crown solicitor for the whole circuit; but this system has not been found to answer, *ib.* 1847–1851——Upon the whole, the Irish system works well, but it is still capable of very great improvement, *ib.* 1856–1868. 1873.

Report, 1855—*continued.*

Ireland—continued.

Opinion that a great deal of the business in Ireland is admirably done; this must be the case where official respectable men are employed; *Right Hon. J. Napier* 1865–1868——With all this efficiency in Ireland, there is no undue expenditure of the public money, *ib.* 1869–1872——Utility of the continuation of a local staff and a central staff, *ib.* 1929, 1930——The sessional prosecutors are an excellent class of officers, but badly paid, *ib.* 1969, 1970——Nature of a plan suggested by witness, and drawn out by Mr. Seed, for altering their salaries, and also, in some respects, their duties, *ib.* 1970–1977, and *App. p.* 241–245.

Report made to the Attorney-general by the Crown solicitor, after each circuit, of the result of each case, in order that the Attorney-general may see whether it has been properly conducted, *Right Hon. J. Napier* 1978–1983——There is no reason why the Irish system should be called an expensive system, *ib.* 2460——Evidence showing that the objections, as regards Ireland having local prosecutors or Crown solicitors, do not apply to England, *ib.* 2461, 2462——Reference to the analogy between the Irish and English systems of criminal justice, *Right Hon. J. A. S. Wortley* 2644–2648.

See also *Attorney-general for Ireland. Bar, The. Grand Jury (Ireland). Post-office Prosecutions. Prisoners' Witnesses. Private Prosecutions. Stipendiary Magistrates.*

J.

Jersey. Reference to the state of the Jersey law as founded on the Grand Costumier of Normandy, *Ellis* 202–207.

Judge, The. See *Examination of Prisoners.*

L.

Leeds:

1. *Defects of the former System of Prosecutions.*
2. *Alterations made therein, and Way in which carried out.*
3. *Satisfactory Result of these Alterations.*

1. *Defects of the former System of Prosecutions:*

The present system at Leeds was adopted in consequence of the defects of the former system, *Ellis* 176, 177. 526——Cases were sometimes got up in a very careless manner previously to the present system, *ib.* 177. 181. 185. 200, 201. 233——Detailed statement of the circumstances and abuses which led to the appointment of Mr. Markland and Mr. Rawson as public prosecutors, *Markland* 712–714; *Richardson* 854. 872, 873——Evidence as to the report made by witness in 1842 on the subject of criminal prosecutions, and the appointment of Mr. Markland and Mr. Rawson as public prosecutors consequent upon that report, *Barr* 1377–1379. 1396–1398.

2. *Alterations made therein, and Way in which carried out:*

The cases for prosecution are distributed between two attorneys, who conduct them; reason for two attorneys being appointed; *Ellis* 177. 183. 229–232——The two superintendents of police are in the first instance bound over to prosecute, *ib.* 177. 183. 230——Payment of the attorneys by fees, *ib.* 186——The evidence in some of the out-townships, where there are no police, is not so easily got at as in other parts of the borough, *ib.* 213, 214——Witness is a solicitor at Leeds; manages the prosecutions for the borough in conjunction with Mr. Rawson, *Markland* 708–711——Duties, commencing upon committal, which devolves upon them, *ib.* 716. 718.

3. *Satisfactory Result of these Alterations:*

Successful employment of a public prosecutor at Leeds adverted to, *Lord Brougham* 109, 110; *Ellis* 192——Great improvement effected by the system of prosecution adopted at Leeds, which works exceedingly well and satisfactorily, *Ellis* 177. 182–185. 188–191——Great satisfaction given by the present system, *Markland* 720–722. 742, 743——Witness delivers in a tabular return of the number of persons tried, or bills against whom were ignored for the borough of Leeds, with the number acquitted and convicted from Christmas 1839 to Michaelmas 1842, being the three years preceding the appointment of public prosecutors, and also the like return for the three years succeeding such appointment, *Richardson* 782, 783. 1468.

Satisfactory and advantageous result of the appointments of Mr. Markland and Mr. Rawson as public prosecutors, *Richardson* 854; *Barr* 1380–1383——Since the adoption of the present system in Leeds, about 80 cases out of every 100 have resulted in conviction, *ib.* 1388–1390. 1394, 1395——The system which has been adopted at Leeds might be beneficially adopted in other parts of the kingdom; but witness does not go the whole length of the Bill, *ib.* 1384–1386.

See also *Counties. Preliminary Investigation*, III., 1. *Yorkshire.*

Leeman,

Report, 1855—*continued.*

Leeman, George. (Analysis of his Evidence.)—Clerk of the peace for about twelve years for the East Riding of Yorkshire; also practises as solicitor at York, 949-952——Is decidedly opposed to the main points of the Bill under consideration, 954-956——Impracticability of applying the provision for a public prosecutor to the county of York, 955, 956——Injury to the bar if the Bill be passed, 955——Suggested agency of magistrates' clerks as quite sufficient, without the intervention of district agents, for the prosecution of all cases coming before justices, 955, 956——Magistrates' clerks should be paid by salary, fees being abolished, 955.

Approval of discretion in the judge as to granting expenses to witnesses for prisoners, 956——Concurrence in the proposition for the grand jury having opportunity to consult some professional person in cases of difficulty, 957-959——Unnecessary character of the expense contemplated by the Bill, 959——Bills should never be preferred to the grand jury unless the prosecutor has previously gone before a magistrate, 960——Insufficiency of the sanction of the Attorney-general to prosecutions in cases of indictment for perjury, conspiracy, &c., 960.

Leinster Circuit. Suggested increase of salaries to the sessional solicitors, *App. p.* 244.

Liverpool:

1. *Mode of conducting Criminal Prosecutions.*
2. *Beneficial Operation thereof.*
3. *Saving of Expense as compared with other Places.*

1. *Mode of conducting Criminal Prosecutions:*

Refetence to the employment in Liverpool of a salaried public prosecutor, *Lord Brougham* 105-108——Evidence relative to the system adopted by the corporation of Liverpool of having one attorney to conduct all the cases, *Barr* 1399, 1400; *Hankins* 2587-2598——Course of practice at criminal trials at Liverpool, *Brett* 2767 *et seq.*——The town clerk is the criminal prosecuting attorney; he is paid by a very liberal fixed salary, *ib.* 2767——Way in which he conducts the business with the assistance of one clerk; efficiency with which the business is conducted; he may be considered the public prosecutor for the district, *ib.* 2768-2774.

Witness (clerk to the town clerk) is the judge of the evidence which is requisite, draws all the indictments, and is responsible to the public, *Walter* 2795, 2796——The whole of witness's time is devoted to his duty; average number of cases he has to manage in the course of the year, *ib.* 2795-2801——Witness is simply actuated with the desire to attain to the truth, and can have no desire in procuring a conviction, *ib.* 2802-2808.

2. *Beneficial Operation thereof:*

Beneficial results which have arisen from the system adopted at Liverpool, *Barr* 1399, 1400——How far this plan has worked efficiently, *Hankins* 2587-2598——Comparing this system with the system in which the cases are conducted in the southern division of the county, the balance is decidedly in favour of the former, *Brett* 2775-2779——The system adopted at Liverpool has been very much approved of by other places; it has been adopted at Manchester, except as to drawing the indictments, *Walter* 2848-2850.

3. *Saving of Expense as compared with other Places:*

Saving effected by the system adopted by the corporation of Liverpool, *Hankins* 2587-2598.

See also *Attendance of Witnesses. Counsel. Expense of Prosecutions*, 5. *Manchester. Police*, 3. *Postponement of Trials. Preliminary Investigation*, III. 2. *Unnecessary Witnesses.*

Livingstone, Mr. See *Examination of Prisoners.*

Local Agents. See *District Agents. Ireland. New York.*

Lord Advocate. See *Minister of Justice. Nolle Prosequi.*

Low Practitioners. Constant scrambles formerly at Leeds between attorneys for the management of prosecutions, *Richardson* 872, 873——Evil in cases being taken up by speculative attorneys; extent to which carried, *Hemp* 883-886——Indecent scrambles may, perhaps, occasionally take place between attorneys for the management of prosecutions, *Avory* 2333-2335; *Horn* 2730-2733; *Waddington* 2083-2086. 2129, 2130——Opinion that many attorneys in London attend the police offices for the purpose of getting up prosecutions, *Goodman* 2219-2224.

The want of a public prosecutor may have a tendency to throw the conduct of criminal prosecutions into the hands of low practitioners, *Avory* 2250-2253. 2261; *Right Hon. J. A. S. Wortley* 2611-2613. 2641-2643. 2670. 2671; *Horn* 2712——A low scale of remu-

Report, 1855—*continued.*

Low Practitioners—continued.

neration tends to throw prosecutions into the hands of low and improper practitioners, *Horn* 2682–2687——Objection to the scrambling for prosecutions to get them out of the hands of the constables who are bound over to prosecute, *Compton* 2881.

See also *Attorneys. Police Courts. Police*, 4. *Staffordshire.*

M.

Magistrates. In certain cases the magistrate should have the option of appointing an attorney to conduct the prosecution, *Greaves* 278——Satisfactory administration of justice by the magistracy at the present time, *Lord Campbell* 697——Approval of the clause in the Bill which empowers justices of petty sessions to appoint a person to attend to the prosecution, *Trafford* 979–981. 1013——Impropriety of an irresponsible public prosecutor over-riding the authority of magistrates in regard to prosecutions, *ib.* 1090——It is no part of the purpose of witness's evidence at all to interfere with the existing duties of the magistrates, *Preston* 1232. 1235–1245.

See also *Appointment of Prosecutors. Attorneys. Committals. Committing Magistrates. Evidence. Expense of Prosecutions*, 1. *Indictments. Metropolis, The. New York. Petty Offences. Police*, 3. *Preliminary Investigation. Public Examination. Stipendiary Magistrates.*

MAGISTRATES' CLERKS:

1. *How far they might get up the Evidence under the District Agents.*
2. *Approval of the Plan suggested of making them the District Agents or Prosecutors.*
3. *Objections to this Plan; Difficulties in the Way of carrying it out.*

1. *How far they might get up the Evidence under the District Agents:*

Witness does not object to the proposal that magistrates' clerks be employed to get up the evidence, and that in cases of difficulty they apply to the district agent, *Hemp* 930–936——Suggested agency of magistrates' clerks as quite sufficient, without the intervention of district agents, for the prosecution of all cases coming before justices, *Leeman* 955, 956——Objection to the system adopted, in some counties, of individual magistrates appointing their own clerks, in addition to petty sessional clerks, to take evidence in criminal prosecutions, *Preston* 1181–1186. 1303–1308——Although the clerks to the London police magistrates are not professional men, they are generally well acquainted with their business; no great advantage would arise from their being professional men; *Hobler* 1761–1764——Witness is rather in favour of magistrates' clerks getting up prosecutions, *Waddington* 2083–2088.

2. *Approval of the Plan suggested of making them the District Agents or Prosecutors:*

Reference to the statement by the society of magistrates' clerks in 1845, that the clerks to the petty sessions would be the best persons for public prosecutors, *Ellis* 260–263——Magistrates' clerks (paid by salary) might be the district officers or prosecutors, *Straight* 456–459. 517, 518——Magistrates' clerks as district agents should be subject to some officer in the county, who should be called the county public prosecutor, *ib.* 517, 518——The proposed district agents are not necessary, *Trafford* 977, 978——Except in serious and difficult cases, magistrates' clerks would amply suffice to attend to prosecutions, *ib.* 1049–1054——There would be no very strong objection to the magistrates' clerks having the whole conduct of prosecutions; or the magistrates might appoint a person, independent of their clerk; *Waddington* 2131–2133.

If paid by salary instead of fees, the magistrates' clerks would be the fittest persons to conduct prosecutions, *Avory* 2346–2366. 2369–2373. 2377. 2387–2390——This would be a great improvement on the present system, *ib.* 2346. 2387–2390——Even if their salaries were considerably increased, this plan would be much less expensive than a separate and distinct establishment of public prosecutors, *ib.* 2346–2366——In all cases of difficulty they might have a reference direct to the Attorney-general, *ib.* 2378–2382——Local control which might exist over the conduct of the clerks as well as the central control of the Attorney-general, *ib.* 2383–2386.

In ordinary common-place cases the intervention of the magistrates' clerks as prosecutors would not be required, *Sir A. Cockburn* 2408, 2409——The only scheme which appears to witness to be at all practicable would be, that the magistrates' clerks, being attorneys, should be appointed district agents for the purpose of getting up the prosecutions, *Right Hon. J. A. S. Wortley* 2617——Approval of the plan which has been suggested of making the clerks to the justices the assistants to a Crown officer in conducting or getting up prosecutions, *Foote* 2953——If the magistrates' clerks were made the district agents they should be paid by salary, *ib.* 2954–2960.

3. *Objections*

Report, 1855—*continued.*

MAGISTRATES' CLERKS—continued.

3. *Objections to this Plan; Difficulties in the way of carrying it out:*

Magistrates' clerks should be quite independent of the question of prosecutions, *Roberts* 1479–1482. 1486, 1487——Frequent instances of prosecutions being inefficiently got up where managed by the magistrate's clerk, *ib.* 1541–1544——Difficulties in the way of appointing magistrates' clerks as district agents, *Horn* 2694–2699——It is not desirable that magistrates' clerks should have a direct pecuniary interest in recommending prosecutions, *ib.* 2726–2729——Witness's first impression was, that the magistrates' clerks might be made useful agents for the purpose of prosecutions; difficulties in the way of this, particularly as regards their salaries, *Sir A. Cockburn* 2408, 2409——Advantage of a scheme by which magistrates' clerks should be paid uniform fees; direct interest tney have at present in multiplying prosecutions, *Hankins* 2564. 2570.

See also *Collusion. District Agents. Evidence. Fees. Frivolous Prosecutions. Metropolis, The. Petty Sessions' Clerks. Salaried Officers.*

Maltreatment of Children. Cases of maltreatment of children or servants, &c. might very properly be taken up by the district agent, *Greaves* 294——Frequency of disputes as to who should defray the expenses of prosecutions in cases where children have been ill-used; failure of justice in consequence, *Hobler* 1738–1740——Reference to the case of the Birds, where a poor child was savagely treated; this was a case in the country; reason why it was taken up by the Government, *Waddington* 2074–2080.

Manchester. Very improper manner in which some prosecutions were formerly conducted at Manchester; amendment thereof by witness, *Trafford* 971–976. 993–997——Regulation at Manchester as to the cases to go to sessions and to assizes, *ib.* 1034. 1048——Operation of the different systems of prosecutions in the two courts under witness at Manchester and Salford, *ib.* 1042–1047——The same system of criminal justice is pursued at Manchester as at Liverpool, *Austen* 2969–2972——The system operates perfectly well; it saves expense, and prevents frivolous prosecutions, *ib.* 2973–2980.

See also *Liverpool*, 2.

Markland, Bertie. (Analysis of his Evidence.) See *Richardson, Hamilton*, &c.

Metropolis, The. Practical remedies, so far as the Metropolis is concerned, which have suggested themselves to witness's mind for the evils in the present system, *Hobler* 1742 *et seq.*——Suggestion that the Metropolis should be divided into districts, and a solicitor appointed to each of those districts; the magistrates sending the depositions to such solicitor, *ib.* 1743–1749. 1765–1771——Suggestion also for the appointment of a superintendent barrister, to whom the magistrate might refer to decide whether the case should be sent for trial or not, *ib.* 1743——As far as committal goes, the public have the best guarantee that justice is exercised well in the Metropolis, *ib.* 1765.

District agents would not be so necessary in the country as in London; the clerks to the magistrates in the country being nearly always attorneys, *Hobler* 1772, 1773——Supposing the provisions of the Bill to be adopted, the Metropolis should be divided into six districts, a solicitor being attached to each, *ib.* 1777–1782——They should receive an adequate remuneration, and put aside their private business, *ib.* 1783——It would not be an unfair salary to give them 1,000 *l.* a year at the lowest, *ib.* 1784–1786.

See also *Central Authority. Murder, Cases of. Police*, 2. 4. *Provinces, The.*

Minister of Justice. Recommendation that any new department being formed, it should be a minister of public justice, *Lord Brougham* 30, 31——Any minister of justice, with such power as the Lord Advocate, should sit in Parliament, *Lord Advocate* 157–160——The system of public prosecutors witness would recommend, would not be a number of irresponsible agents, but a minister of justice at the head, corresponding with the minister of justice in France, *Waddington* 2120–2127——He should be a person of high legal attainments to whom all the agents should be responsible, *ib.* 2127.

High importance of having such a functionary in this country as a minister of justice; the public prosecutor should be responsible to him, and subject to his control, *Sir A. Cockburn* 2410–2413——Supposing a minister of justice to be appointed, the appointment of the district agents should be vested in him, *ib.* 2448.

See also *Attorney-general. Bar, The.*

Mint Prosecutions. Check upon frivolous prosecutions in the system pursued by the Mint, *Straight* 465–469——Defect in the Mint system of prosecution, *Hemp* 897. 943.

Moncrieff, Right Hon. James, Lord Advocate of Scotland, (a Member of the Committee), (Analysis of his Evidence.)—Description of the Scottish system of public prosecution, 111 *et seq.*——Particulars relative to the advocates-depute, of whom there are four, and one for the sheriff court, 111. 113–119——Functions, remuneration, &c. of the procurators fiscal, 111, 112. 120——System of preliminary private examination; advantage thereof, 111——Successful operation in Scotland of the system generally, 111. 127. 153, 154——

Report, 1855—*continued.*

Moncrieff, Right Hon. James, &c. (Analysis of his Evidence)—*continued.*

Doubt as to the applicability of the system on an extended scale to England, 111. 138—— Very rare occurrence of private prosecutions in Scotland, 121–127.

Opportunities of all aggrieved persons to represent their cases through the procurators fiscal, 129–135——Course taken in the event of complaint that the procurator fiscal refuses to take up a case, 136——Right of a private party to obtain the concourse of the Lord Advocate, 137——Direct responsibility desirable in a public prosecutor, 139. 156–159——Advantages in the advocates-depute going out of office upon a change of government, 140–143——Practice in regard to the warrant for the arrest of any one charged with crime, 144, 145——The expenses of the prosecution are paid by the Treasury; check exercised hereon, 146–148. 152.

Confidence of the public in the system, 149. 165——The Scotch system is more favourable than the French system to the prisoner, 155, 156——A minister of justice, with such power as the Lord Advocate, should sit in Parliament, 157–160——More liberal and satisfactory operation of the Scotch system than in former years, 161–165—— Careful investigation of each case before proceedings are taken upon it, 166–168—— The Lord Advocate frequently exercises his power of entering a *nolle prosequi*, 169, 170—— There is no appeal from the Lord Advocate as to whether a case should be tried or not, 171.

Munster Circuit. Suggested increase of salaries to the sessional solicitors, *App. p.* 244.

Murder, Cases of. Very efficient manner in which cases of murder are now got up, *Lord Campbell* 666. 680——Most of the important cases for murder in the metropolitan district in the last few years have been conducted by the Treasury, *Reynolds* 1575. 1588—— Steps taken by the Treasury in some of these cases, *ib.* 1576.

See also *Home Office.*

N.

Napier, Right Hon. Joseph, M. P. (a Member of the Committee), (Analysis of his Evidence.) ——Was Attorney-general for Ireland under the administration of Lord Derby in 1852; has had a great deal of experience in criminal business, 1816, 1817——Detail of the system of conducting prosecutions as it now exists in Ireland, 1818——At the assizes the prosecutions are always conducted by the Crown solicitors, *ib.*——At the sessions by what are termed sessional prosecutors, *ib.*——Way in which the cases are carried out by the Crown solicitors, *ib.*——Way in which carried out by the sessional prosecutors, *ib.*—— Great objection to the system of private prosecutors; opinion that it is a part of the duty of the executive government to attend to the prosecutions for public offences, 1819.

Great pains with which the Post-office cases in Ireland are got up, 1819——Way in which the system of sessional prosecuturs might be greatly improved, 1820–1824—— Insufficiency of the pay of the sessional prosecutors; liberal pay of the Crown solicitors, 1825–1830. 1950——Crown prosecutors should not be engaged in private cases, 1828 ——Opinion that it is a great evil that in criminal cases private feeling should have anything to do with the administration of justice; it ought to be entirely a matter for the State, 1831——The theory of the practice in Ireland is that the Attorney-general either personally conducts the prosecution or conducts it by some one appointed by him; opinion that this course is founded upon a right principle, 1832–1835——Great advantage resulting from this system as regards the directing of the attention of the junior prosecutors to the study of the criminal law, 1836–1841.

By the system adopted in Ireland, from the time of the committal of the crime till the verdict of the jury is given, the case is in the charge of some public officer, 1842–1846—— The experiment has been tried of making local persons Crown solicitors instead of having one Crown solicitor for the whole circuit; but this system has been found capable of improvement, 1847–1851——As regards the preliminary inquiries before magistrates, what is termed the district prosecutor in the Bill should assist them in difficult cases, 1852. 1854, 1855——The district prosecutor should be paid by salary, 1853——Opinion that the Irish system is not injurious to the independence of the bar, 1856–1863——It encourages the division of labour at the bar and is to the public benefit, 1856–1863.

Upon the whole the Irish system works well; but it is still capable of very great improvement, 1864–1868. 1873——Opinion that a great deal of the business is admirably done; this must be the case where efficient respectable men are employed, 1865–1868 ——With all this efficiency there is no undue expenditure of the public money, 1869–1872——In some cases the witnesses for prisoners are allowed their expenses but very rarely, 1872——Opinion that an improved system is quite attainable in England, care being taken to avoid too sudden a change, 1874——All matters fit for public prosecution should be taken charge of by responsible public officers, the executive Government being charged with the duty of seeing them properly conducted and carried out, *ib.*——Preference given to a careful previous investigation over any power of appeal, 1875–1887.

Report, 1855—*continued.*

Napier, Right Hon. Joseph, M. P., &c. (Analysis of his Evidence)—*continued.*

Cases under the English system generally receive a careful preliminary sifting, 1881–1884——Further evidence as to the appointments and powers of the Crown solicitors and the power of the Attorney-general with respect to them, 1888–1906——Attendance of the Attorney-general personally in all cases of importance; great advantage arising from this practice, 1907–1913——Great assistance rendered to the executive in the administration of criminal justice in Ireland by the resident or stipendiary magistrates, 1914–1916——Material reduction in the expense of administering criminal justice in Ireland, arising from the very efficient constabulary system in that country, 1916–1922.

Extent to which the constabulary in Ireland are allowed to interfere in criminal matters, 1916–1922——Proportion in which the stipendiary magistrates are distributed throughout Ireland, 1923, 1924——Where the Attorney-general fails to prosecute there is nothing to prevent the private prosecutor from proceeding, 1925, 1926——Generally speaking the system of prosecution is not a local system, although the sessional prosecutors are local officers, 1927–1930——Utility of the continuation of a local staff and a central staff, 1929, 1930—— Doubts as to whether any great advantage would arise from debarring the permanent Crown counsel from practising in the civil courts on circuit, 1931, 1932——At any rate there should be a perfect understanding that the Crown business should receive their primary and proper care, 1931, 1932.

Opinion that it would be advisable to have a public prosecutor in the courts of quarter sessions in England, although some of the chairmen are competent men, 1933–1941. 1948–1950——Evidence as to the appointment and pay of petty sessions clerks in Ireland, 1942–1947——The criminal business ought to be conducted by a person responsible to the public; the best possible men should be got, 1953, 1954——There would be no objection to the district agent assisting the grand jury in criminal business; importance of the functions of the grand jury; witness would be sorry to see the system done away with, 1955–1962——The Attorney-general in Ireland, in exercising his discretion as to what cases he would prosecute in, would of course see that the prosecution was one of public justice, and not with a view to work out any private object, 1963–1968.

The sessional prosecutors are an excellent class of officers, but badly paid, 1969, 1970——Nature of a plan, suggested by witness and drawn out by Mr. Seed, for altering their salaries, and also, in some respects, their duties, 1970–1977——Report made to the Attorney-general by the Crown solicitor after each circuit of the result of each case, in order that the Attorney-general may see whether it has been properly conducted, 1978–1983.

[Second Examination.]—Delivers in certain papers, 2457, 2458——Witness would say that the English system is more expensive than the system in Ireland, 2459, 2460——There is no reason why the Irish system should be called an expensive system, 2460——The right plan is to have the work done by competent and proper persons fairly paid; it is not a mere question of expense, 2461——Evidence showing that the objections as regards Ireland to having local prosecutors or Crown solicitors do not apply to England, 2461, 2462——Observations on, and answers to, various of Mr. Pitt Taylor's objections to the Irish system (as found in a paper delivered in by him, and appended to the eighth report of the Commissioners on Criminal Law), 2463–2491.

New York, State of. Practice in the State of New York in regard to the summoning and attendance of witnesses, *Greaves* 401——In each of the 56 counties of the State of New York there is a local officer, called a district attorney, whose duty it is to attend to all criminal prosecutions in the county; how such duty is carried out, *Davies* 534–553. 561. 605–613——The district attorney generally consults with the committing magistrate, and always attends the grand jury as legal adviser, *ib.* 543, 544. 546–548. 551–553. 588–590. 602–604——Salary of the district attorney of New York; he has of necessity a large staff and an assistant attorney under him, *ib.* 555–561——Course pursued after the grand jury have concurred in finding a bill, *ib.* 561. 592–594. 606–613.

The office of district attorney is deemed a very honourable position, *Davies* 570——Public prosecutors have always existed in New York and in most of the United States, *ib.* 576–581. 628. 636——Functions of the attorney-general of the State of New York, *ib.* 581–586——The district attorney holds his appointment for three years; how elected, *ib.* 587. 632–634——Course of action of the magistrates in the city of New York and in the country, *ib.* 596–604.

See also *Preliminary Investigation*, III. 4. *Prisoners' Witnesses. Private Practice.*

Nolle Prosequi. The Lord Advocate frequently exercises his power of entering a *nolle prosequi: Lord Advocate* 169, 170——Mischief arising from the fact that the Attorney-general is now the only person that can direct a *nolle prosequi;* how far this evil might be remedied, *Sir A. Cockburn* 2415–2424.——*See* also *Clerks of the Peace.*

North-east Circuit (Ireland). Suggested increase of the salaries to the sessional solicitors, *App. p.* 244.

Report, 1855—*continued.*

North of England. Success of the plan in Durham, Northumberland, and the West Riding of Yorkshire, of selecting a counsel and giving him the general superintendence of prosecutions, *Lord Brougham* 16——Anxiety of attorneys in the North of England, where the remuneration is high, to get prosecutions, *Horn* 2682.

North-west Circuit (*Ireland*). Suggested increase of salaries to the sessional solicitors, *App. p.* 244.

Northern Circuit. Satisfactory result in the Northern Circuit of having a gentleman to attend to tax the costs of criminal prosecutions; large reduction of expenses consequent thereon, *Preston* 1257–1281.

O.

Offences. See *Capital Offences. Crime. Murder, Cases of. Petty Offences.*

Old Bailey. See *Central Criminal Court.*

P.

Parliamentary Return. Return witness would suggest should be moved for relative to the expenses of prosecutions, *Foote* 2916, 2917.

Patronage. Consideration of the subject of the mode of appointment and removal of the contemplated district prosecutors, *Lord Brougham* 88–99——Expediency of politics not interfering in the appointment of the proposed public prosecutors, *ib.* 90, 91——The appointment of the district officer should rest with Government, *Greaves* 327, 328. 339——Obstacles to a system of public prosecutors on the score of patronage, *Lord Campbell* 639. 646–650——The appointment of public prosecutors should be vested in the Crown, *ib.* 667–669. 706.——*See* also *Appointment of Prosecutors.*

Payment of Witnesses. Hardship in binding over to give evidence, on the score of payment of expenses, the same not being allowed till the trial is over, *Lord Brougham* 6. 55——Steps taken in the county of Stafford to prevent fraud in the case of paying the expenses of witnesses, *Hatton* 1462–1467——Great fraud practised upon witnesses in paying them their expenses; suggestions for remedying this evil, *Goodman* 2161, 2162——There is no practical impediment to paying to each witness his own expenses; practice adopted at the Central Criminal Court, *ib.* 2228–2232——Witness has no substantial grounds for doubting whether the full allowances are paid to witnesses, *Avory* 2262——Frequency of the cases of witnesses being defrauded of their proper allowances by attorneys, *Compton* 2897, 2898——It would be very desirable, if such a system could be adopted, that the taxing officer of the circuit should pay the witnesses, *ib.* 2909–2911.

See also *Advance of Expenses. Witnesses.*

Perjury. See *Conspiracy, &c.*

Permanent Counsel. See *Counsel.*

Petty Offences. Instances of large expenses at assizes for witnesses in cases of petty theft; suggested expediency of giving a magistrate summary jurisdiction in small affairs of this kind, *Goodman* 2150–2160.——*See* also *Police.*

Petty Sessions. See *Magistrates. Magistrates' Clerks. Police,* 3. *Preliminary Investigation,* II.

Petty Sessions Clerks. The clerk to the justices in petty sessions is not the party who ought to have the conduct of prosecutions, *Barr* 1434, 1435——Evidence as to the appointment and pay of petty sessions clerks in Ireland, *Right Hon. J. Napier* 1942–1947.

Police Courts. With the view to doing away with the remarks that are made of cases not being properly taken up at the police courts, some solicitor should be attached to these courts, *Hobler* 1678–1683——There is a class of persons who attend police courts for the sake of getting prosecutions who are not attorneys, *Avory* 2263, 2264.

See also *Low Practitioners.*

Police, The:

1. *Utility of the Police as regards the preliminary Investigation.*
2. *Approval of the System of the Police being bound over to prosecute.*
3. *Objections to this Practice.*
4. *Opinions as to their acting in connivance with low Attorneys.*

1. *Utility of the Police as regards the preliminary Investigation:*

Great usefulness of the police in the preliminary stages of prosecution, *Straight* 514——Doubt as to the police in county towns and at sessions abusing their powers, *Lord Campbell*

Report, 1855—*continued.*

POLICE, THE—continued.

1. *Utility of the Police as regards the preliminary Investigation*—continued.

Campbell 673——Under the present system it is necessary that great discretion should be vested in the police, *Hatton* 1331, 1332——Grounds for forming the opinion that the police are the most competent persons to get up the evidence, but witness has never heard of their managing prosecutions, in the proper acceptation of the word, nor would he consider them the proper persons to do so, *Avory* 2268–2332——Even in collecting the evidence it would be an advantage if there were some superior person to control them, *ib.* 2284–2332. 2336–2338——Extent to which policemen must necessarily be engaged in prosecutions, *Foote* 2930–2932.

2. *Approval of the System of the Police being bound over to prosecute:*

Frequent occurrence of offences for which there would be no prosecution if the police did not take them up, *Hatton* 1370–1373——Witness does not concur in the evidence of Captain Hatton, that in all the cases where the police were the prosecutors, there would be no prosecution at all if they did not prosecute; witness's experience is quite to the contrary, *Roberts* 1538–1540. 1545——From the fact of the clerks to the metropolitan magistrates not being attorneys, and not practising, the police are necessarily bound over to prosecute, unless in cases connected with property, *Waddington* 2067.

In certain cases the police apply to the Secretary of State for legal assistance; such assistance is given them, but these cases are extremely few, *Waddington* 2067——Consequently in London nearly all cases are conducted by the police up to the moment of a bill being found by the grand jury, *ib.* 2067——In witness's official position he has not heard of any serious complaints or general failures of justice arising from this system, *ib.* 2068–2072——How far in common cases police officers are the most proper persons to be bound over to prosecute, *Goodman* 2179–2218.

3. *Objections to this Practice:*

The system of binding over policemen as prosecutors is very objectionable, *Greaves* 277, 278; *Straight* 492, 493. 506–516; *Hatton* 1313–1318; *Hobler* 1790–1796; *Wilkinson* 2009, 2010; *Horn* 2734; *Compton* 2899–2907——Pecuniary temptations to which the police are liable, *Straight* 510–512——A vast number of cases are managed by policemen in London; they are the worst possible people to have such a trust delegated to them, *Preston* 1150–1161——Objection to police officers on their own mere impulse being permitted to take long expensive journeys to collect information, *ib.* 1154–1157. 1216–1227——The magistrates allow too liberally these large expenses to police officers, *ib.* 1158. 1213, 1214. 1216 *et seq.*——Policemen ought to be removed from all motive for unfairly pressing prosecutions, *ib.* 1159–1162.

Evils arising from the police having pecuniary interest in prosecutions; suggestions for remedying these evils, *Hatton* 1364–1369——In no case should a policeman or constable be the prosecutor; this evil can only be obviated by a direct enactment, *Roberts* 1528–1537——Many prosecutions are brought to trial by the police; interference, in consequence, with the duties of the professional man, and power and authority given to the police thereby which is inconsistent with their duties, *Hobler* 1684–1686——Although upon the whole the police as a body act very fairly, it would be derogatory to the justice of this country that the conduct of prosecutions should be thrown into their hands, *ib.* 1711–1715. 1774–1776.

So far as concerns prosecutions at petty sessions, the police may be useful for conducting them when nobody else can be got, but not otherwise, *Wilkinson* 2026–2033——Serious evil arising from the manner in which policemen mix themselves up with prosecutions; reasons for the great zeal evinced by them to obtain convictions; mischievous effects thereof, *Sir A. Cockburn* 2396–2399——Great evil of policemen having the management of prosecutions in any way, *Right Hon. J. A. S. Wortley* 2672, 2673——Little interference the police have in Liverpool with regard to prosecutions, *Walter* 2793, 2794. 2851–2857.

4. *Opinions as to their acting in connivance with low Attorneys:*

Great slur upon the independence of the bar, and consequent evils arising from the fact of policemen acting with low attorneys in instigating prosecutions, *Preston* 1294–1297——So far as regards the metropolis, witness much doubts the fact of attorneys feeing policemen to give them prosecutions, *Waddington* 2140–2146——If, however, such a practice does exist, it is a great evil requiring interference, *ib.* 2140–2146——Witness has never met with any case of policemen receiving fees for bringing prosecutions to attorneys, *Avory* 2265–2267——Under the present system, the cases being so much in the management of the police fall into the hands of low practitioners; this is a very great evil, *Compton* 2882–2894.

See also *Collusion. Constables. Constabulary (Ireland). Home Office. Leeds*, 2. *Low Practitioners. Preliminary Investigation. Taxation of Costs. Unnecessary Witnesses.*

Report, 1855—*continued.*

Political Prosecutions. In certain political cases, it should be discretionary in parties to prosecute without the intervention of a public prosecutor or the sanction of the court, *Straight* 496-502.

Poorer Classes. Hardship to the poorer classes in the want of a public prosecutor, *Lord Brougham* 55——Difficulty at present to poor persons in bringing forward needful evidence, *ib.* 71-73——Many cases are not gone into on account of the poverty of the prosecutor; this is an injury to the poor man, *Wilkinson* 2003-2005——Great disadvantage which would arise to a poor man who had received an injury if advances were not made by the attorney, *Hobler* 1727, 1728——It is an evil that there is not some person to whom the poorest man might go, and desire him to conduct his case, when an offence has been committed against him, *Sir A. Cockburn* 2400-2402——If a poor man had not the means of prosecuting, witness would give the Crown prosecutor the power of taking up the case for him, *Hankins* 2579-2581.

See also *Advance of Expenses.* *Prisoners' Witnesses.*

Post-office Prosecutions (Ireland). Great pains with which the Post-office cases in Ireland are got up, *Right Hon. J. Napier* 1818.

Postponement of Trials. How far witness, as town clerk of Liverpool, has the power of postponing a case until a future session or assizes, supposing he considers it imperfect, *Walter* 2820, 2821.

PRELIMINARY INVESTIGATION:

I. *Defective State of the present System of preliminary Investigation.*
II. *Opinions as to how far the proposed Bill would remedy this.*
III. *Nature of the preliminary Investigation in various Places.*

1. Leeds.
2. Liverpool.
3. Scotland.
4. New York, State of.

I. *Defective State of the present System of preliminary Investigation:*

Great defect in the present law, in there being no means of originating inquiries in cases of felony, &c., *Greaves* 274——The main evil to be remedied is, that there is no person responsible for the management of a prosecution from the time of the committal to the time of the presentment, *Straight* 449-455. 471, 472. 493-495——Great want of some competent person to make a searching investigation, even before the case comes before the magistrate, *Wilkinson* 1990. 2022-2025——Strong opinion that prosecutions would be more satisfactorily conducted if there were some one to intervene between the apprehension of the prisoner and the bringing of the case into court, *Sir A. Cockburn* 2396——Failure of justice frequently arising from the want of a responsible public prosecutor to get up cases properly, *Foote* 2918-2222.

II. *Opinions as to how far the proposed Bill would remedy this:*

Recommended interference of the prosecutor before the finding of the bill by the grand jury, *Lord Brougham* 18——Anticipated advantage of the proposed district officer in making investigations on the occurrence of any offence, the perpetrator of which is not known or suspected, *Greaves* 282. 342, 343——Except in capital cases, the district prosecutor would not take the initiative, *ib.* 352, 353——Advantages of the district agent attending before the magistrates before committal, *Markland* 748——The preliminary inquiries need not rest with the district agent, *Hemp* 914-919.

Witness would not alter that part of the preliminary investigation which takes place at the police stations, *Hobler* 1750-1760——As regards the preliminary inquiries before magistrates, the person termed the district prosecutor in the Bill should assist them in difficult cases, *Right Hon. J. Napier* 1852. 1854, 1855——Cases under the English system generally receive a careful preliminary sifting, *ib.* 1881-1884——Importance of the district prosecutor attending at the petty sessional division when the preliminary evidence is taken, *Wilkinson* 2052, 2053.

III. *Nature of the preliminary Investigation in various Places:*

1. Leeds:

Nature of the preliminary examination of the witnesses at Leeds, *Ellis* 215, 216——By the system adopted at Leeds no assistance is given in getting up the cases for trial; the provision made in the Bill with this object would be a considerable improvement, *Barr* 1386. 1391-1393.

2. Liverpool:

Way in which the preliminary investigation is carried out in Liverpool before witness takes the case, *Walter* 2809-2814.

3. Scotland:

Report, 1855—*continued.*

Preliminary Investigation—continued.

III. *Nature of the preliminary Investigation in various Places*—continued.

3. Scotland:

System of preliminary private examination; advantage thereof, *Lord Advocate* 111 ——Careful investigation of each case in Scotland before proceedings are taken upon it, *ib.* 166–168.

4. New York, State of:

Nature of the preliminary proceedings in the State of New York on the occurrence of any offence; how the complaint originates, *Davies* 540–542. 595–597. 615–619.

See also *Appeals. Capital Offences. Police*, 1.

Presentments. See *Grand Juries.*

Preston, John Hughes. (Analysis of his Evidence.)—Solicitor; was employed by the Government to examine into the expense of criminal prosecutions on the Oxford circuit; has been acquainted with the practical working of the entire system for the last twenty-five years, 1140–1142——Has turned his attention to the subject of the appointment of a public prosecutor, 1143——It would effect a very considerable remedy for the corrupt practices going on under the present system, 1144 ——Collusion existing among attorneys, justice's clerks, and the police, with a view to augmenting to the greatest possible extent the costs of criminal prosecutions, *ib.*——The practices which take place amount to roguery, 1145–1147——Frivolous and groundless prosecutions are frequently brought, 1748, 1149.

Great mismanagement in conducting cases under the present system, 1150——A vast number of cases are managed by policemen in London; they are the worst possible people to have such a trust delegated to them, 1150–1161——Objection to police officers, on their own mere impulse, being permitted to take long expensive journeys to collect information, 1154–1157——The magistrates allow too liberally these large expenses to police officers, 1158——Policemen ought to be removed from all motive for unfairly pressing prosecutions, 1159–1162——Objection to the practice of attorneys advancing considerable sums of money to get up the evidence for a prosecution, 1163–1167.

Inconvenience of the large number of separate indictments against the same prisoner; great increase of expense occasioned thereby, 1167, 1168——In taxing the fees after the termination of a case, witness has been able to reduce the expenses of prosecutions very considerably, 1169–1180——Reference to the practice formerly existing in Durham for the clerks to the magistrates from Sunderland and other places to conduct all the prosecutions; reasons for objecting to this system, 1181–1186——Opinion that a public prosecutor would insure a sound and effectual administration of the criminal law, 1184.

Great variation in the costs of prosecutions in different counties; practicability of assimilating them, 1187–1190——How far any increased authority is wanted to pay witnesses for lost time, 1191–1193. 1290–1293——Considerable increase in the expenses of prosecutions since the Treasury have paid the whole amount; want of the supervision which existed when the counties had a moiety to pay, 1194, 1195——Witness most decidedly recommends the appointment of a public prosecutor, having the country divided into districts, and a public prosecutor attached to each, subject to the Attorney-general, 1200–1207——The public prosecutors should be the responsible parties to manage and prepare the evidence; barristers conducting the cases in court the same as at present, 1201. 1206, 1207.

Frequency of cases being brought to trial without sufficient preparation; failure of justice in consequence, 1208–1212——Further objection to the too liberal allowances to police officers for procuring evidence; they are not necessary in addition to his wages, 1213. 1214. 1216 *et seq.*——Great evil of employing unpaid constables, it leading to their claiming excessive expenses, 1216–1227——The remedy for the present too liberal system of paying the expenses claimed both by the police officers and the unpaid constable, would be to have them checked and allowed by the public prosecutor for the district, 1219–1230, 1237–1243——The public prosecutor should point out and direct what evidence is necessary in support of the case, 1231–1234. 1243–1245——It is no part of the purpose of witness's evidence at all to interfere with the existing duties of the magistrates, 1232. 1235–1245.

Way in which the principle of the Bill might be less expensively worked out, 1246 *et seq.*——The appointment of public prosecutors in various districts, with means by their own staff to conduct cases to trial, would be less expensive than the mode contemplated by the Bill; way in which they might be distributed, 1246–1252——The public prosecutor should have the power of distributing the briefs, 1253–1256——Satisfactory result on the northern circuit of having a gentleman to attend to tax the costs of criminal prosecutions; large reduction of expenses consequent thereon, 1257–1281——Evidence showing the notoriety of the county of Stafford for frivolous and improper prosecutions, and causes to which this state of things may be ascribed, 1262–1281.

Report, 1855—*continued.*

Preston, John Hughes. (Analysis of his Evidence)—*continued.*

Statement showing the number of persons committed for trial, the number of convictions, acquittals and bills ignored on certain circuits at the spring assizes 1855, 1262–1278——Grounds for forming the opinion that the appointment of an adequate number of public prosecutions would not entail any substantial additional expense upon the country, 1282, 1283——At the same time the country would gain in point of efficiency in the conduct of public prosecutors, 1283——Advantage of a professional man being in attendance to assist grand juries, 1284–1288.

Great slur upon the independence of the bar, and consequent evils arising from the fact of policemen acting with low attorneys in instigating prosecutions, 1294–1297——A public prosecutor would be competent to say what witnesses would be necessary and what witnesses might be dispensed with, 1299–1302——Objection to the system adopted in some counties of individual magistrates appointing their own clerks, in addition to the petty sessional clerk, to take evidence in criminal prosecutions, 1303–1308.

Prisoners. See *Defence of Prisoners. Examination of Prisoners. Scotland. Trials.*

Prisoners' Witnesses. Discretion exercised by witness in regard to the allowance of costs to witnesses for prisoners, *Lord Advocate* 148. 152——Approval of discretion being vested in the judge to allow expenses to prisoners' witnesses, *Greaves* 388–392. 395. 398–403; *Markland* 852, 853; *Hemp* 920–922; *Leeman* 956; *Trafford* 1056–1061; *Wilkinson* 2006–2008——Obstacles to giving one judge the power of allowing the costs of witnesses for prisoners, *Lord Campbell* 699–705——Hardship in there not being some legal provision for allowing expenses to prisoners' witnesses; suggestion hereon, *Richardson* 862–868——In certain cases it might promote the interest of justice to allow expenses to witnesses for a prisoner; way in which these expenses might be allowed and settled, *Hobler* 1798–1809.

Allowing the expenses of witnesses for a prisoner would be a humane provision; way in which it would be likely, however, to have serious effects upon the administration of justice, *Waddington* 2094–2110——Expenses of prisoners' witnesses might be allowed in certain cases; but under very careful superintendence, *Avory* 2339–2345; *Sir A. Cockburn* 2452, 2453——If practicable, it would be very desirable in some cases to allow prisoners the expenses of their witnesses; it is, however, a very difficult question, *Right Hon. J. A. S. Wortley* 2625–2629.

In the state of New York the expenses of the prisoners' witnesses, if poor people, are defrayed by the county; doubt as to fraudulent defences being ever induced thereby, *Davies* 562–569——In some cases in Ireland the witnesses for the prisoners are allowed their expenses; but this is very rare, *Right Hon. J. Napier* 1872.

Private Practice. The district agent should not be prohibited from private practice, provided always the duties of his office were not interfered with, *Greaves* 321–323——Doubts as to whether any great advantage would arise from debarring the permanent Crown counsel in Ireland from practising in the civil courts on circuit, *Right Hon. J. Napier* 1931, 1932——At any rate there should be a perfect understanding that the Crown business should receive their primary and proper care, *ib.* 1931, 1932.

Private Prosecutions. Even if public prosecutors be established, there should still be a right of private prosecution, *Lord Brougham* 21–24; *Markland* 770; *Hemp* 903–905; *Straight* 961, 962; *Cameron* 1114–1117——Very rare occurrence of private prosecutions in Scotland, *Lord Advocate* 121–127——Right of a private party to obtain the concurrence of the Lord Advocate, *ib.* 137——Proposition that where the Crown counsel and the district officer stop the prosecution, the party feeling aggrieved should not be allowed to proceed at his own risk unless he obtain the sanction of the Court, *Greaves* 404–423——Still witness objects to the cases being altogether taken from the private prosecutors, *ib.* 435–443.

In the state of New York the person aggrieved cannot continue the prosecution unless through the intervention of the district attorney, *Davies* 609–614——Obstacle to a system of public prosecution in its interference with the long-established right of private prosecution, *Lord Campbell* 639——Witness objects to the entire abolition of private prosecutions; class of cases not requiring a public prosecution, *ib.* 674–684——A private individual may not always be competent to conduct a prosecution; but respectable attorneys are always to be found to conduct them, *Roberts* 1540, 1541.

Great objection to the system of private prosecutions; opinion that it is a part of the duty of the Executive Government to attend to the prosecutions for public offences, *Right Hon. J. Napier* 1819——Crown prosecutors should not be employed in private cases, *ib.* 1828——Where the Attorney-general in Ireland fails to prosecute, there is nothing to prevent the private prosecutor from proceeding, *ib.* 1925, 1926.

Desire of many persons to keep the conduct of their case in the hands of their own solicitor, *Goodman* 2177–2179——Private parties should not be prohibited from prosecuting where the agent thought there was no case; but they should do it at their own risk,

Report, 1855—*continued.*

Private Prosecutions—continued.

risk, *Sir A. Cockburn* 2425–2428; *Hankins* 2550, 2551. 2557——Opinion that in private hands prosecutions are not always conducted with fairness, but rather with a vindictive feeling, *Right Hon. J. A. S. Wortley* 2652, 2653.

See also *District Agents*, 2. *Home Office. Poorer Classes.*

Procurators Fiscal. Functions and remuneration, &c. of the procurators fiscal, *Lord Advocate*, 111, 112. 120——Opportunities of all aggrieved persons to represent their cases through the procurators fiscal, *ib.* 129–135——Course taken in the event of complaints that the procurator fiscal refuses to take up a case, *ib.* 136.

Prosecutions. Statement showing the number of persons committed for trial; the number of convictions, acquittals, and bills ignored on certain circuits at the Spring Assizes 1855, *Preston* 1262–1278.

See also *Amendment of the Law. Boroughs. Counsel. Counties. County Court Judges. District Agents. Expense of Prosecutions. Frivolous Prosecutions. Home Office. Imperfect Prosecutions. Ireland. Leeds. Liverpool. Magistrates' Clerks. Mint Prosecutions. Police. Political Prosecutions. Private Prosecutions. Public Prosecutors. Quarter Sessions. Treasury, The. Witnesses.*

Provinces. Witness has not seen much difference in the mode of conducting prosecutions down to the time of trial between the cases in the country and those in London, *Hobler* 1718–1720.——*See* also *Treasury, The.*

Public Examinations. Advantage on the whole of the publicity of the examinations before committing magistrates and coroners, *Lord Brougham*, 50, 51.

Public Nuisances. The prosecution of public nuisances might be entrusted to the district agent, *Greaves* 294.

Public Prosecutors. A system of public prosecutors would be a very great benefit to the administration of criminal justice in England, *Davis* 623–626; *Hemp* 878–880. 912. 924. 939–941; *Cameron* 1103–1113. 1127–1135. 1139; *Preston* 1184; *Avory* 2246–2249; *Right Honourable J. A. S. Wortley* 2649; *Horn* 2681; *Walter* 2783–2792; *Compton* 2880 *et seq.*——Opinion that it is a great evil that in criminal cases private feeling should have anything to do with the administration of justice; it ought to be entirely a matter for the State, *Right Honourable J. Napier* 1831——The criminal business ought to be conducted by a person responsible to the public; the best possible men should be got, *ib.* 1874. 1953, 1954——There should be some one to watch over the case, and see that it is brought to a proper termination, *Sir A. Cockburn* 2400–2402——The desirable system is one which should neither be within the power of the Attorney-general nor entirely at the caprice of the prosecutor, but something between both, *ib.* 2427.

Very great difficulties attendant on any system of public prosecutors, *Lord Brougham* 16. 28. 84. 80. 89–93——Direct responsibility desirable in public prosecutions, *Lord Advocate* 139. 156–159——Witness is opposed to the appointment of a public prosecutor; grounds for such objection, *Greaves* 286. 289. 306——Sundry obstacles to the introduction into England of the Scotch system, *Lord Campbell* 638, 639. 654, 655——Witness is decidedly opposed to the main points of the Bill under consideration, *Leeman* 954–956.

Witness has read the Bill which is before the Committee; opinion that it would not be advisable to carry out the whole system, as proposed therein, *Foote* 2951, 2952——In England the nucleus already exists of a system of prosecution, which might be greatly improved and carried out, *ib.* 2953——Plan which witness has drawn up relative to public prosecutors submitted to the Committee; statement of the details of this plan, *ib.* 2954–2960.

See also *Amendment of the Law. Appointment of Prosecutors. Attorney-General. Bar, The. Central Authority. Central Criminal Court. Committals. Compromises. District Agents. Evidence. Expense of Prosecutions. Failure of Justice. Foreign Countries. France. Frivolous Prosecutions. Government, The. Grand Juries. Ireland. Leeds. Liverpool. Magistrates. Magistrates' Clerks. Minister of Justice. New York. Poorer Classes. Preliminary Investigation. Private Prosecutions. Responsibility. Salaried Officers. Scotland. Special Prosecutor. Tenure of Office. Trials. Wales.*

Q.

Quarter Sessions. Opinion that it would be advisable to have a public prosecutor in the courts of quarter sessions in England, although some of the chairmen are competent men, *Right Hon. J. Napier* 1933–1941. 1948–1950—— Letter from Mr. Seed, dated 20th September 1852, to the Attorney-general in Ireland, alluding to the mode of prosecuting cases at quarter sessions, and contrasting the former with the present practice in regard thereto, *App. p.* 243.——*See* also *Recognizances. Staffordshire.*

Report, 1855—*continued.*

Queen's Bench, Court of. Means for preventing compromises in the case of indictments removed into the Court of Queen's Bench, in which court compromises are extremely easy, *Straight* 520–525.

R.

Ratepayers. The difficulty in regard to public prosecutors used to be with the ratepayers, but it is not so now; there is no reason, therefore, why the system should not be altered, *Right Hon. J. A. S. Wortley* 2649.

Rawson, Mr. See *Leeds.*

Recognizances. Expediency of amendment in regard to enforcing the recognizances when parties are unwilling to prosecute, *Trafford* 1018, 1019——Instances of compromise would more frequently occur but for the recognizances, *ib.* 1024–1026——Summary power to enforce might be given to the quarter sessions, *ib.* 1019.

See also *Compromises. Society of Friends.*

Referee. See *Central Authority.*

Repairs of Roads and Bridges. Suggestion that cases with regard to the repairs of roads and bridges be turned into civil cases, *Greaves* 372.

Responsibility. Responsibility proposed respectively in the district agent and in the attorney prosecuting, *Greaves* 302–304——Without reference to details, there certainly should be some person responsible for the conduct of criminal prosecutions, *ib.* 317, 318——Responsibility of the district attorneys in the State of New York, *Davies* 574, 575. 606-608.——*See* also *Central Authority. District Agents. Public Prosecutors.*

Reynolds, Henry Revell. (Analysis of his Evidence.)—Solicitor to the Treasury since 1852; 1551, 1552——Is acquainted with the share which the Treasury takes in conducting prosecutions, 1553——The prosecutions are principally directed by the Home Office, but the other branches of the Government under the Treasury also send directions for prosecutions, 1553-1556——Course adopted by the Treasury on receiving these directions, 1557-1559——Approximate estimate of the expense of the prosecutions conducted by the Treasury in the course of the year, 1560, 1561. 1593. 1628——In many cases the Treasury get the costs allowed by the county, and only pay the difference between the costs incurred and the costs allowed on taxation, 1561–1564.

No attorney is employed to manage the Treasury prosecutions; they manage them themselves; in the country, agents are employed under their superintendence, 1565. 1624–1626. 1656——Where necessary that fresh evidence should be got, the agent is directed to obtain it, 1565–1567——Necessity in some cases for advancing money in order to get the requisite witnesses, 1568–1570——Course adopted by the Treasury with regard to the Chartist trials in 1848; success with which these prosecutions were conducted, 1571–1574——Most of the important cases for murder in the metropolitan district, in the last few years, have been conducted by the Treasury, 1575. 1588——Steps taken by the Treasury in some of these cases, 1576.

Important cases in the country have not, as a general rule, been prosecuted by the Treasury, 1577–1579. 1581–1586——Witness has no knowledge of the grounds upon which the Secretary of State directs the Treasury to prosecute; they are simply directed to prosecute, 1579, 1580. 1587, 1588——It may be possible that criminal justice may be obstructed from the want of a proper person to superintend the prosecutions, 1589–1592——Witness is not aware of any reason why the Treasury should not interfere in important cases in the country as well as in London, except the great additional work it would give the office, 1594, 1595. 1603–1609.

Principle upon which the Home Office directs prosecutions by the Treasury in particular cases; how far they take them up spontaneously, 1596–1598——Witness presumes that the reason why the more important cases are taken up by the Home Office is, that it is felt that the prosecution would be more efficiently conducted by some public authority than by the private prosecutor, 1599, 1600——Mode in which the expenses of prosecutions in the country are defrayed, 1601, 1602——Witness is not aware of any cases where there has been a failure of justice from any unwillingness to incur expense; still no more money is spent than is considered necessary, 1603–1609——In prosecutions taken up by the Treasury the Attorney-general is not necessarily consulted, 1610–1614——The solicitor to the Treasury being paid by salary, no portion of his profits depends on the amount of business done, 1615–1620.

The Treasury never prosecutes without instructions from the Secretary of State, 1621–1623. 1627——Great additions to the office, and great change in the office, which would be necessary if the Treasury solicitor were to have the general conduct of all public prosecutions, 1629–1646——Control exercised by the Treasury over the bills sent in by their agents in the country for expenses of witnesses, &c., 1647–1655——Witness is not aware that it is the duty of any party in the country to make an application to the Secretary of State to direct the Treasury to take up a prosecution, 1658–1665.

Cases

Report, 1855—*continued.*

Reynolds, Henry Revell. (Analysis of his Evidence)—*continued.*

Cases are sometimes abandoned, if, after investigation, it is found that a conviction is not likely to be obtained, 1666, 1667——In factory cases the Treasury have enforced the Act of Parliament by civil action, but not in the case of mines, 1668——If the Treasury were applied to, to interfere upon statements that the magistrates have refused to interfere in, they would have no authority to entertain such application, 1669.

Richardson, Hamilton, and Bertie Markland. (Analysis of their Evidence.)—(*Mr. Markland.*) Solicitor at Leeds; manages the prosecutions for the borough, in conjunction with Mr. Rawson, 708-711——Abuses which led to the appointment of witness and Mr. Rawson as public prosecutors, 712-714——They are not paid by salary; regulation as to their fees, 715. 719——Duties, commencing upon committal, which devolve upon them, 716-718——Great satisfaction given by the system, 720-722. 742, 743——Grounds for concluding that the expense of criminal prosecutions would be diminished under the system of district agents proposed by Mr. Phillimore, 723-728. 744-748. 755. 851.

Check upon frivolous prosecutions by the appointment of public prosecutors, 727——Expense at present in too many witnesses being often produced, 728. 787-793. 851——In cases of assault, the costs of prosecution are now paid by the public, 729——Necessity at present of attorneys for the prosecution sometimes advancing the expenses, without always being reimbursed by the court, though such expenses may have been fair and legitimate, 730-740. 750-754. 814-830.

A barrister should not be a district agent; injury to the bar thereby, 746, 747. 756. 794-801. 807-812——Advantage of the district agents attending before the magistrates before committal, 748——Their action should commence, as proposed, from the period of apprehension, 748. 765-769. 784-793——They might be remunerated upon the same principle as those now conducting prosecutions, 758-764——There should still be a right of private prosecution, 770——Necessity in very many cases of obtaining further evidence for the trial, in addition to that taken before the magistrates previously to committal, 771-780——It is not the duty of the gaoler to communicate with the clerk of the peace in regard to evidence of previous conviction, 779.

(*Mr. Richardson.*) Witness, who is deputy clerk of the peace for Leeds, makes a statement of the number of committals, of convictions, and of acquittals, during the three years previously to the adoption of the present system, and during the first three years after the adoption of such system, 782, 783.

(*Mr. Markland.*) Impracticability of one barrister as prosecutor conducting all the cases at sessions, 794-796——Nature of the assistance given by witness when the bills are before the grand jury, 802-804——Advantage generally of some professional person attending with the bills before the grand jury, 805, 806——Loss of money by the attorney for bringing witnesses to the trial does not often occur, 813——Examination to the effect that it may be safely left to the district agent to advance money for witnesses without control on the part of the judge, and that the power to advance such money would be an improvement upon the present system, 814-851——Advantage if there were a discretion to allow expenses to prisoners' witnesses, 852, 853.

(*Mr. Richardson.*) Detailed statement of the circumstances and abuses which led to the appointment of Mr. Markland and Mr. Rawson, 854. 872, 873——Excellent manner in which the appointment has worked, 854——With respect to Mr. Phillimore's Bill, it should clearly provide that the magistrate may have the power of committing without the sanction or advice of the public prosecutor, 854-856——Difficulty in the Bill in regard to the conduct of the cases at sessions by one barrister and an assistant, 856-859——The Bill does not sufficiently define the duties of the district agent and of the attorney selected for the prosecution; amendment suggested, 859-862. 869-871.

The gaoler at Leeds always communicates with witness in regard to previous convictions, 862——Hardship in there not being some legal provision for allowing expenses to witnesses for prisoners; suggestion hereon, 862-868——Constant scrambles formerly at Leeds between attorneys for the management of prosecutions, 872, 873——Instance of witness as attorney for the prosecution, in a case of fraudulent bankruptcy, having incurred more expense in getting up evidence than was returned to him out of the county allowance, 873.

[Second Examination.]—(*Mr. Richardson.*) Delivers in a return of the number of persons tried, or bills against whom were ignored, for the borough of Leeds, with the number acquitted and convicted, from Christmas 1839 to Michaelmas 1842, being the three years preceding the appointment of public prosecutors, and also the like return for the three years succeeding such appointment, 1468.

Roberts, Samuel Johnson. (Analysis of his Evidence.)—Solicitor in Chester upwards of thirty-five years; has had a large experience in criminal business, 1469-1471——Has never known instances in which attorneys have been called upon to advance money for prosecutions and have been out of pocket thereby; reasons why such cases are not likely

Report, 1855—*continued.*

Roberts, Samuel Johnson. (Analysis of his Evidence)—*continued.*

to occur, 1472–1477——Great alteration requisite in reference to the criminal practice of the country, 1478, 1479——The evil would be met, to a great extent, by making the magistrates' clerks independent of the motive which they have in conducting prosecutions, paying them by salaries instead of fees, 1479–1482. 1486, 1487——In thinly populated districts, such as Wales, great advantage would result from a public prosecutor, 1483–1487.

Magistrates' clerks should be quite independent of the question of prosecutions, 1487——A sort of district agent would be the best person to put between the magistrates' clerk and the court; say one person who should take in a hundred of a county, 1488–1495——When such agent should be paid by salary, and when by the county allowance; such parties might continue their general practice, as well as conduct prosecutions, 1496–1511. 1546——Statement of the expenses allowed in prosecutions in the county of Cheshire, 1513–1515——Amount paid for prosecutions at sessions and assizes in the county of Chester, 1850 to 1854, taken from the published accounts, *p.* 120——Copy bill on prosecution for felony received by witness in London, 15th June 1855, *p.* 120——Scale of fees in the city of Chester under the Municipal Act, *p.* 121——This scale does not apply to the county, but the scale in the county has been much reduced, 1516–1518.

Extraordinary prosecutions are taken into consideration by the recorder or the judge, and extra allowances granted, 1519–1525——If practicable, it would be better to pay professional men by salary rather than by fee; difficulties in the way of this, 1526–1528——In no case should a policeman or constable be the prosecutor; this evil can only be obviated by a direct enactment, 1528–1537——Witness does not concur in the evidence of Captain Hutton, that in all the cases where the police were the prosecutors, there would be no prosecution at all if they did not prosecute; witness's experience is quite the contrary, 1538–1540. 1545——A private individual may not always be competent to conduct a prosecution; but respectable attorneys are always to be found to conduct them, 1540, 1541——Frequent instances of prosecutions being inefficiently got up where managed by the magistrates' clerks, 1541–1544——Opinion that there might be a great evil connected with the appointment of public prosecutors as regards the bar, 1546——How far it would tend to throw a monopoly into the hands of a public prosecutor, as against the rising talent of the bar, 1546.

S.

Salaried Officers. Advantage in prosecutions generally being undertaken by appointed salaried prosecutors rather than as at present by magistrates' clerks or attorneys paid by the job, *Ellis* 235–259——The salary of the district agent should be about 500*l.* a year, *Greaves* 326——Reduction in the number of prosecutions if the magistrates' clerks be paid by salary, which witness prefers to payment by fees, *Hemp* 936–938——Magistrates' clerks should be paid by salary, fees being abolished, *Leeman* 955——If practicable it would be better to pay professional men by salary rather than by fee; difficulties in the way of this, *Roberts* 1526–1528——The proposed district prosecutor should be paid by salary, *Right Hon. J. Napier* 1853——Suggested increase of salaries to the sessional solicitors in Ireland, *App. p.* 244.

See also *Counsel. District Agents,* 2. *Expense of Prosecutions,* 3. 4. *Fees. Ireland. Leinster Circuit. Liverpool. Magistrates' Clerks,* 2. 3.

Salford. See *Manchester.*

Scotland. Comparison of the number of commitments, of trials, and of acquittals, in England and in Scotland, showing the advantage of a public prosecutor in the latter country, *Lord Brougham* 34, 35——Description of the Scottish system of public prosecution, *Lord Advocate* 111 *et seq*——Successful and beneficial operation of the system, *Lord Advocate* 111. 127. 153, 154; *Lord Campbell* 637. 639–641.

Doubt as to the applicability of the system on an extended scale to England, *Lord Advocate* 111. 138——Confidence of the public in the system, *ib.* 149. 165——The Scotch system is more favourable than the French system to the prisoner, *ib.* 155, 156——More liberal and satisfactory operation of the system than in former years, *ib.* 161–165——Advantage if the Scotch system could be adopted in England, *Lord Campbell* 638, 639. 695——Prosecutions are better conducted in Scotland than in England, *ib.* 656–658.

Evidence relative to the Scotch system of administering criminal justice, *Right Hon. J. A. S. Wortley* 2631, 2632——Similarity which may be drawn between the Scotch system and that suggested by witness, *ib.* 2632——The Lord Advocate, the Advocate Depute, and the Procurator-fiscal are just the Attorney-general or his deputy, and the clerk of the peace and the district prosecutor, the instrumentality of the latter three authorities being contemplated by witness, *ib.* 2632, 2633.

See also *Advocates Depute. Appeals. Convictions. District Agents,* 2. *France. Preliminary Investigation. Private Prosecutions. Procurators Fiscal. Warrants.*

Seed,

Report, 1855—*continued.*

Seed, Mr. Letters prepared by Mr. Seed, as directed by Mr. Napier, with a view to carry into effect certain improvements in the system of prosecutions, &c., in Ireland, *App. p.* 241–245.——*See* also *Ireland. Metropolis, The. New York.*

Select Committee of 1833. Witness gave full evidence before a Committee of the House in 1833 upon the subject now under consideration, *Lord Brougham* 1–3.

Sessional Prosecutors. See *Ireland. Leinster Circuit.*

Sessions. Difficulty in the Bill in regard to the conduct of the cases at sessions by one barrister and an assistant, *Richardson* 794–796. 856–859.

See also *Chairmen of Sessions. Ireland. Petty Sessions. Quarter Sessions.*

Shepherd, Mr. Reference to a statement by Mr. Shepherd to the effect, that in bringing home a charge of murder he lost about 40 *l.* in getting up the evidence, *Greaves* 312, 313.

Society of Friends. Practice of members of the Society of Friends to forfeit their recognizances rather than prosecute, *Lord Brougham* 13.

Special Prosecutors. Advantage of attorneys or special prosecutors being appointed to marshal the evidence before magistrates in serious cases; other duties to be filled by these prosecutors, *Trafford* 1032, 1033. 1037–1040. 1049–1052.

Staffordshire. In Staffordshire prosecutions are sometimes got hold of in order to get money any how, *Greaves* 315——Great public advantage of district agents, especially in the county of Stafford, *Hemp* 890, 891. 939. 941——Evidence showing the notoriety of the county of Stafford for frivolous and improper prosecutions, and causes to which this state of things may be ascribed, *Preston* 1262–1281.

Witness is chief of the constabulary at Stafford; has had opportunities of watching the working of the criminal system there, *Hatton* 1309–1312——Reference to the former disgraceful conduct of many attorneys in Stafford for the purpose of obtaining the management of prosecutions, *ib.* 1319–1324. 1336——Opinion that many prosecutions are improperly got up merely for the purpose of receiving the money, particularly in towns, *ib.* 1325–1330——Return of the result of cases tried at Stafford at assizes and quarter sessions, from April 1850 to March 1851, showing the number of convictions, the number of acquittals, and the number of cases in which no true bill found, *ib.* 1337–1347——Though the acquittals, compared with the convictions, stand very high at the assizes, this is not the case at quarter sessions, *ib.* 1343, 1344.

In Stafford the solicitors are not paid at quarter sessions; to this cause may be attributed the fact that many trumpery cases are kept back from the quarter sessions and sent to the assizes, *Hatton* 1348–1362——Evidence showing, in the three years 1852, 1853 and 1854, the number of persons prosecuted from Stafford at assizes and at quarter sessions, and the cost to the county per head, *ib.* 1445–1462——At assizes the cost has been less than 16 *l.* a head, *ib.* 1462.

Attorneys are not employed at the sessions; the depositions are sent to the clerk of the peace, who distributes them to the counsel, *Wilkinson* 2011–2015.

Tables furnished by Captain Hatton, showing the sentences passed on prisoners committed for trial in each year respectively, from 1851 to 1855, in Stafford, *App. p.* 246, 247.

Stipendiary Magistrates. (*Ireland*). Great assistance rendered to the executive in the administration of criminal justice in Ireland by the resident or stipendiary magistrates, *Right Hon. J. Napier* 1914–1916——Proportion in which the stipendiary magistrates are distributed throughout Ireland, *ib.* 1923, 1924.

Straight, Robert Marshall. (Analysis of his Evidence.)—Is deputy clerk of assize on the Home Circuit, and one of the clerks of arraigns of the Central Criminal Court, 444——Has had considerable experience on the subject of criminal procedure, 445–447——The evils arising from the want of some responsible person to undertake the duties of criminal prosecution are not so great as has been supposed, 448——The main evil to be remedied is that there is no person responsible for the management of a prosecution from the time of the committal to the time of the presentment, 449–455. 471, 472. 493–495.

Approval of the appointment of district officers responsible for prosecutions, 456–458. 493–495——Efficient and economical conduct of prosecutions if magistrates' clerks be employed and be paid by salaries, 456–459——Great expense of district officers, other than magistrates' clerks, 456——Objection to magistrates' clerks being paid by fees, 460–462——Insufficiency of a district agent acting with the clerks of petty sessions to meet the evil arising from prosecutions undertaken for the sake of enforcing a civil claim; scandal of such prosecutions, 463, 464. 472.

Opinion that not many frivolous prosecutions are carried on through the want of a public prosecutor, 463. 470, 471——Check upon frivolous prosecutions in the system

Report, 1855—*continued.*

Straight, Robert Marshall. (Analysis of his Evidence)—*continued.*

pursued by the Mint, 465-469——Suggestion in order to prevent compromise in the case of prosecutions got up for the sake of enforcing civil claims, 473-476. 503-505——Rare instances of attorneys for the prosecution advancing money for witnesses, and being out of pocket thereby, 477-488.

Proportion of cases at the Old Bailey, &c. in which attorneys are not employed to prosecute; how such cases are managed, 489-492——Evil in cases being conducted and brought to trial by policemen, 492, 493. 506-516——The district officer might conduct all prosecutions where the prosecutor makes no valid objection, 496, 497. 504, 505—— In certain political cases it should be discretionary in parties to prosecute without the intervention of a public prosecutor or the sanction of the court, 496-502——The great usefulness of the police is in the preliminary stages of prosecutions, 514.

Magistrates' clerks (paid by salary) should be district officers or prosecutors, 517, 518 ——These should be subject to some officer in the county, who should be called the county public prosecutor, 517, 518——There should be a supreme power in London, but one counsel there would not be sufficient, 519, 520——Suggestion, with a view to prevent compromises, in the case of indictments removed into the Court of Queen's Bench, in which court compromises are extremely easy, 520-525——Similar suggestion in the case of proceedings removed into the Court of Error, 520-525.

(Second Examination.)—Efficiency with which cases at the Central Criminal Court are now prosecuted upon trial by the counsel retained in the case, 960——Amount of fees paid to counsel in regard to prosecutions on the Home Circuit at Lent Assizes in 1855; 960.

More effective administration of justice by the appointment of the proposed district agents, 960, 961——The agents should be appointed for small districts, or for petty sessional divisions, and not for counties, 960, 961. 963-965——Objection to the public prosecutor appearing in court to conduct the prosecution, 961. 966——Expediency of a continuance of the right of private prosecution without control on the part of the Crown, 961, 962.

Subordinate Officers. Subordinate officers under the proposed district agent are not necessary, *Greaves* 340, 341.

Supervision. See *Central Authority.*

T.

Taxation of Costs. In taxing the fees after the termination of a case, witness has been able to reduce the expenses of prosecutions very considerably, *Preston* 1169-1180——The remedy for the present too liberal system of paying the expenses claimed, both by the police officers and the unpaid constable, would be to have them checked and allowed by the public prosecutor for the district, *ib.* 1219-1230. 1237-1243——Saving which has been effected since the Treasury have sent down officers to the country to assist in taxing the costs, *Hankins* 2546-2548——Way in which the accounts from the country are sent up to the Treasury, and checked and paid, *ib.* 2552, 2553.

See also *Expense of Prosecutions. Northern Circuit. Treasury, The.*

Taylor, Mr. Pitt. Observations on, and answers to, various objections by Mr. Pitt Taylor, to the Irish system (as found in a paper delivered in by him and appended to the Eighth Report of the Commissioners on Criminal Law), *Right Hon. J. Napier* 2463-2491.

Tenure of Office. When once appointed, the prosecutor should only be removed upon cause shown, and after a full inquiry, *Lord Brougham* 88, 89. 95-99——His tenure of office should be during good conduct, *Greaves* 329-331——District agents, as public prosecutors, should not go out of office with the Attorney-general, *Lord Campbell* 707.

Town Clerks. See *Liverpool.*

Trafford, Henry Leigh. (Analysis of his Evidence.)—Barrister at Law; is stipendiary magistrate for the division of Manchester and the borough of Salford, 967-970——Very improper manner in which some prosecutions were formerly conducted at Manchester; amendment thereof by witness, 971-976. 993-997——The proposed district agents are not necessary, 977, 978——Approval of the clause in the Bill, which empowers justices of petty sessions to appoint a person to attend to the prosecution, 979-981. 1013—— Objection to a public prosecutor who should appear in court on each case, 982—— Defects of the system of a public prosecutor, as formerly carried out in the county of Chester, 982-990.

Belief that frivolous prosecutions do not now take place, 991, 992——Statement to the effect, that at Manchester, &c. the police do not conduct the prosecutions or select the attorney for the prosecution, 998-1011——Material increase of expense if the Bill become law, 1011, 1012——Necessarily different amount in different places of the costs allowed

Report, 1855—*continued.*

Trafford, Henry Leigh. (Analysis of his Evidence)—*continued.*

allowed for prosecution, 1014–1017——Expediency of amendment in regard to enforcing the recognizances when parties are unwilling to prosecute, 1018, 1019.

Witness does not consider that failure of justice does now take place, or that district agents are necessary, 1019. 1036. 1062–1076——Power of the defendant and prosecutor to settle certain cases out of court, 1020–1023——Instances of compromise would more frequently occur but for the recognizances, 1024–1026——Practice of magistrates in the north of England to give briefs to counsel for certain prosecutions, 1027–1031.

Advantage of attorneys or special prosecutors being appointed to marshal the evidence before magistrates in serious cases; other duties to be filled by these prosecutors, 1032, 1033. 1037–1040. 1049–1052. 1055——Regulation at Manchester as to the cases to go to sessions and to assizes, 1034. 1048——Injury to the bar if one barrister only be employed as district prosecutor, 1041——Operation of the different systems of prosecutions in the two courts under witness at Manchester and Salford, 1042–1047——Except in serious and difficult cases, magistrates' clerks would amply suffice to attend to prosecutions, 1049–1054.

Approval of a discretion in the judge to allow expenses to prisoners' witnesses, 1056–1061——Advantage of the grand jury availing themselves of the advice of the attorney for the prosecution, 1077——Witness is not aware of any abuse from the power of the grand jury to find a bill without the commitment of the magistrate, 1077–1083——Legal means at present available for preventing compromises in cases of vindictive indictments for conspiracy, &c., 1083–1089——Impropriety of an irresponsible public prosecutor overriding the authority of magistrates in regard to prosecutions, 1090.

Treasury, The. The prosecutions conducted by the Treasury are principally directed by the Home Office, but the other branches of the Government also send directions for prosecutions, *Reynolds* 1553–1556——Course adopted by the Treasury on receiving these directions, *ib.* 1557–1559——No attorney is employed to manage the Treasury prosecutions; they manage them themselves; in the country agents are employed under their superintendence, *ib.* 1565. 1624–1626. 1656——Where necessary that fresh evidence should be got, the agent is directed to obtain it, *ib.* 1565–1567.

The solicitor to the Treasury being paid by salary, no portion of his profits depends on the amount of business done, *Reynolds* 1615–1620——Necessity in some cases for advancing money in order to get the requisite witnesses, *ib.* 1568–1570——Witness is not aware of any reason why the Treasury should not interfere in important cases in the country as well as in London, except the great additional work it would give the office, *ib.* 1594, 1595. 1603–1609 ——Witness does not recollect any cases where there has been a failure of justice from any unwillingness to incur expense; still no more money is spent than is necessary, *ib.* 1603–1609.

Important cases in the country have not as a general rule been prosecuted by the Treasury, *Reynolds* 1577–1579. 1581–1586——Great additions to the office, and great change in the office, which would be necessary if the Treasury solicitor were to have the general conduct of all public prosecutions, *ib.* 1629–1646——Control exercised by the Treasury over the bills sent in by their agents in the country for expenses of witnesses, &c., *ib.* 1647–1655.

Witness is not aware that it is the duty of any party in the country to make an application to the Secretary of State to direct the Treasury to take up a prosecution, *Reynolds* 1658–1665.

Cases are sometimes abandoned if after investigation it is found that a conviction is not likely to be obtained, *Reynolds* 1666, 1667——If the Treasury were applied to, to interfere upon statements that the magistrates have refused to interfere in, they would have no authority to entertain such application, *ib.* 1669——Class of cases in which the solicitor to the Treasury is employed, *Waddington* 2134. 2139.

See also *Attorney-General. Chartist Trials. Consolidated Fund. Expense of Prosecutions*, 2. *Factory Cases. Home Office. Murder, Cases of. Taxation of Costs.*

Trials. Absence of advantage in the appointment of a public prosecutor to conduct the case in court, *Hemp* 878——Objection to the public prosecutor appearing in court to conduct the prosecutions, *Straight* 961. 966; *Trafford* 982——Evidence showing that the case for the prisoner is much more ably conducted than the prosecution; this arises from the want of a proper person charged with the conduct of the trial, *Right Hon. J. A. S. Wortley* 2602——Generally speaking, there is no great inefficiency in the manner in which cases are brought into court, *Horn* 2700, 2701.

See also *Committing Magistrates. Evidence.*

Report, 1855—*continued.*

U.

Uniformity of Practice. Want of uniformity in the general practice in regard to indictable offences, *Hemp* 878——Great objection to the present system, or rather want of system, in the uncertainty as to the mode in which a particular prosecution may be followed out, *Waddington* 2066——One system prevailing in the metropolitan districts, another prevailing in counties where there are no police, *ib.*

United States. See *America.* *New York, State of.*

Unnecessary Witnesses. One evil of the present system is that witnesses are often brought who are unnecessary, *Markland* 728. 787–793. 851; *Horn* 2713——Unnecessary witnesses are taken for the purpose of swelling the costs, *Wilkin* 2505——This evil arises from the fact of the police having too much the management of prosecutions, *ib.* 2505–2509——Great extent of jobbing in order to obtain expenses, *ib.* 2517–2521——Frequency of attorneys bringing witnesses who are not wanted, especially since the establishment of the local police, *Hankins* 2545. 2554, 2555.

Some saving might be made if a stop could be put to the practice of bringing so many unnecessary witnesses, *Right Hon. J. A. S. Wortley* 2610——Extent to which an official control over prosecutions would lessen their number; great probable reduction in the expense, especially as regards unnecessary witnesses, *Horn* 2701–2706——If witness, at Liverpool, finds a witness is unnecessary, he does not call him; considerable sums saved thereby, *Walter* 2859–2876.

See also *District Agents*, 2.

V.

Vagrant Act. Objection to the practice obtaining in the metropolitan district, in order to avoid trouble and expense, of punishing pickpockets under the Vagrant Act, *Waddington* 2137–2139.

W.

Waddington, Horatio. (Analysis of his Evidence.)—Under Secretary of State at the Home Office; had practiced as a barrister for many years, 2062, 2063——Undoubted evils in the present system of administering criminal justice pointed out, 2064 *et seq.*——Great objection to the present system, or rather want of system, in the uncertainty in what mode a particular prosecution may be followed out, 2066——One system prevailing in the metropolitan districts, another prevailing in the counties where there are police, 2066——From the fact of the clerks to the metropolitan magistrates not being attorneys, and not practising, the police are necessarily bound over to prosecute, unless in cases connected with property, 2067.

In certain cases the police apply to the Secretary of State for legal assistance; such assistance is given them, but these cases are extremely few, 2067——Consequently, in London nearly all cases are conducted by the police up to the moment of a bill being found by the grand jury, 2067——In witness's official position he has not heard of any serious complaints or general failures of justice arising from this system, 2068–2072——System on which the Home Office proceeds in granting legal assistance when applied to by the police, 2073——It is only granted in cases of violent assaults on the police, and in cases of murder and manslaughter, 2073.

Reference to the case of the Birds, where a poor workhouse child was savagely treated; this was a case in the country; reason why it was taken up by the Government, 2074–2080——Opinion that the want of a public prosecutor occasionally leads to collusive prosecutions, 2081, 2082. 2088——There may be a sort of scrambling for prosecutions at times among low attorneys, but witness would say that such cases are rare, 2083–2086. 2129, 2130——Witness is rather in favour of the practice of magistrates' clerks getting up prosecutions, 2083–2088.

It is not desirable that attorneys should advance money out of their own pockets for the management of prosecutions, but no great evils have arisen from it, 2089–2091——Impossibility of judging whether a new system, by adopting district agents, would be more or less expensive than the present system, 2092, 2093——Allowing the expenses of witnesses for the prisoner would be a humane provision; way in which it would be likely, however, to have serious effects upon the administration of justice, 2094–2110.

The power of adjournment of trials should be extended to the criminal courts, 2110, 2111——Frequency of a sort of appeal being made to the Home Office, in consequence of proof in favour of the prisoner not having been given, 2112——Circumstances under which such cases arise; steps taken by the Home Office in these cases; pardon is sometimes granted in these cases, 2112–2119.

The

Report, 1855—*continued.*

Waddington, Horatio. (Analysis of his Evidence)—*continued.*

The system of public prosecutors, witness would recommend, would not be a number of irresponsible agents, but a minister of justice at the head, corresponding with the Minister of Justice in France, 2120–2127——He should be a person of high legal attainments, to whom all the agents should be responsible, 2127——The Attorney-general, with his other functions, would not be able to discharge these functions, 2120–2126.

As regards any general failure of justice, witness is only surprised, knowing the irregularity of the system, at there being so few complaints, 2128——There would be no very strong objection to the magistrates' clerks having the whole conduct of prosecutions, or the magistrates might appoint a person independent of their clerk, 2131–2133——Cases in which the solicitor to the Treasury is employed, 2134. 2139.

Doubts as to their being any need of additional assistance, with a view to investigate those prosecutions which are not taken up, 2135–2137——Objection to the practice obtaining in the metropolitan district, in order to avoid trouble and expense, of punishing pickpockets under the Vagrant Act, 2137–2139——So far as regards the metropolis, witness much doubts the fact of attorneys feeing policemen to give them prosecutions, 2140–2146——If, however, such a practice does exist, it is a great evil, requiring interference, 2140–2146.

Wales. In thinly-populated districts such as Wales, great advantage would accrue from a public prosecutor, *Roberts* 1483–1487.

Walter, Henry. (Analysis of his Evidence.)—Has been appointed about seven or eight years by the town clerk of Liverpool to manage criminal prosecutions, 2780–2782—— Opinion that the appointing one single person to superintend and be responsible for the management of criminal prosecutions tends to the better administration of justice, 2783–2792—— Little interference the police have in Liverpool with regard to prosecutions, 2793, 2794. 2851–2857——Witness is the judge of the evidence which is requisite, draws all the indictments, and is responsible to the public, 2795, 2796.

The whole of witness's time is devoted to this duty; average number of cases he has to manage in the course of the year, 2795–2801——Witness is simply actuated with the desire to attain to the truth, and can have no motive in procuring a conviction, 2802–2808——Way in which the preliminary investigation is carried out before witness takes the case, 2809–2814—— How far witness has the power of postponing a case until a future session or assizes, supposing he considers it imperfect, 2820, 2821——It rests with witness to select the counsel to whom he entrusts the conduct of the prosecutions; way in which he selects them, 2825–2827.

Evidence relative to the costs of prosecutions at Liverpool as regards the establishment of the office of public prosecutor; how far it may be considered to be below the cost in other parts of the county of Lancaster, 2828–2847——The system adopted at Liverpool has been very much approved of by other places; it has been adopted at Manchester, except as to drawing the indictments, 2848–2850——If witness finds a witness is unnecessary, he does not call him, and takes care that no expense shall be incurred in bringing him; considerable sum saved thereby; 2859–2876.

Warrants. Practice in Scotland in regard to the warrant for the arrest of any one charged with crime, *Lord Advocate* 144, 145.

Wilkin, George. (Analysis of his Evidence.)—Has assisted the clerk of assize in the North Wales and Chester Circuit; has been employed by the Treasury to go down to the sessions in Suffolk to examine into the costs there, 2492–2496——Considerable sums of money are spent from the laxity of the present system, which might be saved, 2497–2501——Vast expense to the county by the cases which are committed by the magistrates at the present time, 2501–2504——If there were a proper person to examine the cases before they went to the jury this would not be the case, 2501–2504.

According to the present system unnecessary witnesses are taken for the purpose of swelling the costs, 2505——This evil arises from the fact of the police having too much the management of prosecutions, 2505–2509——The costs of prosecutions are reduced now to fully one-half of what they were, 2510–2516——Great extent of jobbing in order to obtain expenses, 2517–2521.

Wilkinson, Samuel. (Analysis of his Evidence.)—Solicitor; town clerk of the borough of Walsall; has had pretty good experience for nearly ten years in criminal business; 1984–1988——Respects in which the present system of the administration of criminal justice requires improvement, 1989 *et seq.*——Great want of some competent person to make a searching investigation even before the case comes before the magistrate, 1990. 2022–2025——Frequent failure of justice from the want of such a person; abuse also of justice for purposes of extortion, 1990–1994. 2022–2025——Escape of criminals from the want of a person directly interested on the part of the public in the management of the prosecution, 1998, 1999.

No particular evil can arise from an attorney having to advance money out of his pocket to procure evidence, 2000–2003——Many cases are not gone into on account of the

Report, 1855—*continued.*

Wilkinson, Samuel. (Analysis of his Evidence)—*continued.*

poverty of the prosecutor; this in an injury to the poor man, 2003-2005——The power of allowing the expenses of the witnesses for prisoners should be exercised with very great care, and should be left entirely to the judge, 2006-2008——Objection to policemen being employed in the management of prosecutions, 2009, 2010——In the county of Stafford attorneys are not employed at the sessions; the depositions are sent to the clerk of the peace, who distributes them to the counsel, 2011-2015.

How far the appointment of a district prosecutor would be likely to insure a better attendance of witnesses at trials than is now obtained, 2016-2021. 2034-2051——So far as concerns prosecutions at petty sessions, the police may be useful for conducting them when nobody else can be got, but not otherwise, 2026-2033——Importance of the district prosecutor attending at the petty sessional division when the preliminary evidence is taken, 2052, 2053——A single officer might take a considerable area, if he did nothing else; he should be paid by salary, 2053-2056——Collusive compromises undoubtedly take place, 2057-2061.

Witnesses. Objection to all expenses being allowed to witnesses called on prosecutions, *Lord Brougham* 56, 57——Check to be exercised by the proposed district officer in regard to the witnesses and the evidence to be produced on trial, *Greaves* 282-285. 301-306. 354-357. 392——Reluctance at present on the part of attorneys to bring forward witnesses really necessary for fear of being blamed by the judge for incurring too much expense, *ib.* 304, 305——Great importance of avoiding the evil of not producing necessary witnesses; case in point, *ib.* 394——How far any increased authority is wanted to pay witnesses for lost time, *Preston* 1191-1193. 1290-1293——It is a very great evil that magistrates have not the power of allowing the expenses of witnesses unless a committal takes place, *Foote* 2922-2924.

See also *Advance of Expenses. Attendance of Witnesses. Central Criminal Court. Compromises. Coroners' Inquests. District Agents,* 2. *Evidence. Grand Juries. Ignored Bills. Payment of Witnesses. Petty Offences. Prisoners' Witnesses. Recognizances. Treasury, The. Unnecessary Witnesses. York.*

Wortley, Right honourable James Archibald Stuart, M. P. (Analysis of his Evidence.)—Has held the office of Recorder of the city of London since September 1850; 2599, 2600——Witness can see the evil of the present system of managing criminal prosecutions; but does not know of any scheme which has been proposed to which he can give his entire assent, 2601——Variety of the evils of the present system, 2602——Justice is defeated and the guilty escape by reason of there being no person competent to inquire after the evidence and arrange it, 2602——Justice is also defeated by procuring the absence of witnesses before the grand jury, 2602——Way in which, from the want of some official persons, indictments and presentment by the grand jury are made the means of oppression and extortion, 2602.

Evidence showing that the case for the prisoner is much more ably conducted than the prosecution; this arises from the want of a proper person charged with the conduct of the trial, 2602——Reference to the fact of counsel not always being employed at the Central Criminal Court; inconvenience arising from this, especially to the judge, 2602-2604——The Bill before the House appears to involve a very large outlay in salaries; opinion that the Bill will not lessen the number of prosecutions, or cheapen the mode of conducting the business, 2605-2610. 2614-2616——Some saving might be made if a stop could be put to the practice of bringing so many unnecessary witnesses, 2610.

The want of a public prosecutor may have a tendency to throw the conduct of criminal prosecutions into the hands of low practitioners, but witness has not seen much evil arising from this, 2611-2613. 2641-2643——The only scheme which appears to witness to be at all practicable would be, that the magistrates' clerks, being attorneys, should be appointed district agents for the purpose of getting up the prosecutions, 2617.

Way in which the clerks of the peace might also be made useful in this scheme, in exercising a supervision over the district agents, 2617-2619. 2659——Difficulties in the way of doing this from the nature of the appointments of the clerks of the peace, 2618, 2619——Power which might be given to the clerks of the peace to enter a *nolle prosequi,* subject to the control of the Attorney-general, 2619——Opinion that the power of going before the grand jury to prefer an indictment is open to the greatest possible abuse, 2620-2624——If practicable it would be very desirable in some cases to allow prisoners the expenses of their witnesses; it is, however, a very difficult question, 2625-2629.

Evidence relative to the Scotch system of administering criminal justice, 2631, 2632——Similarity which may be drawn between the Scotch system and that suggested by witness, 2632——The Lord Advocate, the Advocate Depute, and the Procurator Fiscal are just the Attorney-general or his deputy, and the clerk of the peace, and the district prosecutor, 2632, 2633——The clerk of the peace and the district agent might be left to select the counsel, 2633-2640——Reference to the analogy between the Irish and English systems of criminal justice, 2644-2648.

Report, 1855—*continued.*

Wortley, Right hon. J. A. S., M. P. (Analysis of his Evidence)—*continued.*

Bad economy of not employing counsel in all cases of criminal prosecutions, 2649-2651. 2661-2665——Unless somebody is appointed to conduct the prosecutions, the business cannot be properly done, 2649——The difficulty used to be with the ratepayers, but is not so now; there is no reason, therefore, why the system should not be altered, 2649——Opinion that in private hands prosecutions are not always conducted with fairness, but rather with a vindictive feeling, 2652, 2653——Looking to the interests of the bar, it would not be advantageous to give the prosecuting counsel the dignity of a minister of justice, 2654-2658. 2660.

Opinion that the appointment of a public prosecutor by the Crown would not do away with the sharp collisions which occasionally take place between the prosecuting and the defending counsel, 2666-2669——Evils arising to the interests of the bar from the low class of practitioners attending some of the assizes and sessions in the country, 2670, 2671——Great evil of policemen having the management of prosecutions in any way, 2672, 2673——The grand jury system is one of the great difficulties in diminishing the expenses of prosecutions, 2674.

Y.

York. Inconvenience occasionally at York in regard to the attendance of witnesses at trials as well as before the grand jury, *Ellis* 264, 265——Arrangements which have been made with a view to obviating the inconvenience and expense of witnesses having to go from Leeds to York assizes twice, viz., to go over before the grand jury, and afterwards to the trial, *Barr* 1401-1405.

Yorkshire. Impracticability of applying the proposed provisions for a local public prosecutor to the county of York, *Leeman* 955, 956——The system of public prosecution as adopted at Leeds has not been carried out in any other town in Yorkshire, *Barr* 1399.

REPORT

FROM THE

SELECT COMMITTEE

ON

SANDHURST ROYAL MILITARY COLLEGE;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX AND INDEX.

Ordered, by The House of Commons, *to be Printed,*
18 *June* 1855.

Veneris, 29° *die Martii*, 1855.

Ordered, That a Select Committee be appointed to inquire into the Establishment and the System of Education at the Royal Military College at Sandhurst.

Committee nominated of:—

Sir Francis Baring.	Mr. Hardinge.
Colonel North.	Colonel Dunne.
Sir G. Tyler.	Mr. Shafto Adair.
Mr. Brand.	Mr. Monckton Milnes.
Lord Lovaine.	Mr. Rich.
Viscount Monck.	

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Ordered, That Five be the Quorum of the Committee.

Lunæ, 18° *die Junii*, 1855.

Ordered, That the Committee have power to report their Observations, together with the Minutes of Evidence taken before them, to The House.

REPORT - - - - - - - - - - - - - - p. iii

PROCEEDINGS OF THE COMMITTEE - - - - - - - p. xi

MINUTES OF EVIDENCE - - - - - - - - - p. 1

APPENDIX - - - - - - - - - - - - p. 171

INDEX - - - - - - - - - - - - - p. 197

REPORT.

THE SELECT COMMITTEE appointed to Inquire into the Establishment and the System of Education at the ROYAL MILITARY COLLEGE, SANDHURST, and who were empowered to report their Observations, together with the Minutes of Evidence taken before them, to The House;——HAVE considered the Matters to them referred, and have agreed to the following REPORT:

THE Institution owes its foundation to the exertions of General Le Marchant. It commenced, as a place of instruction for officers, in 1799. In 1801 the Junior Department was organised; the united Departments took the name of the Royal Military College, and His Majesty George the Third was pleased by Royal Warrant to appoint a supreme Board of Commissioners for the purpose of managing all the affairs of the College.

Tenth Report of Commissioners of Military Inquiry.

Life of General Le Marchant.

An establishment and a course of study were recommended by this Board, and adopted in a Royal Warrant passed in the same year, 1801. From this date warrants were issued from time to time until the warrant of 1808, which cancels all former warrants, and still regulates the College.

545.

By this warrant a Board of Commissioners was appointed consisting of the Commander-in-chief, the Secretary at War, the Master-general of the Ordnance, the Quartermaster-general, the Adjutant-general, the Governor, and Deputy-governor of the College—all for the time being; certain other officers were added to these *ex officio* members. In the Board so constituted was vested the control, direction, and management of all the affairs of the College. The College was to be under the immediate command of the Governor and Deputy-governor, to be divided into a senior and junior department, each to have its own course of study under the direction of its own staff.

Vide Warrant.

Tenth Report of Commissioners of Military Inquiry, Appendix.

A collegiate Board was created to take cognizance of all matters relating to the interior economy of both departments. This Board consisted of the Governor, the Deputy-governor, and three other resident military authorities of the College.

The Senior Department is stated in the Royal Warrant to be established for "the purpose of instructing officers in the scientific part of their profession, with "the view of enabling them better to discharge their duty when acting in com-"mand of regiments (the situation in which they can best recommend them-"selves to us, and be entitled to hope for advancement in the higher stations of "our service), and at the same time of qualifying themselves to be employed "in the Quartermaster-general and Adjutant-general's departments."

"The Junior Department," the Warrant states, "is appropriated to the in-"struction of those who from early life are intended for the military profession, "and who by this means may be grounded in science previous to obtaining "commissions in our army. This department is also intended to afford a "provision for the sons of meritorious officers who have fallen or been dis-"abled in the service of their country, and the means of education to the sons "of those officers who belong to our regular service."

Having stated the objects of the Institution, and the form of government under which it was proposed to effect these objects, Your Committee proceed to report on the present state of the College, and how far the objects proposed are now carried out. They will do so under separate heads, and will append to each head the observations and recommendations which their inquiry may have suggested.

Expenditure.

Your Committee feel it unnecessary to enter into any detailed history of the expenditure of the College. The evidence of Mr. Houndle and Sir H. Douglas will furnish ample information on this point. In 1815, the sum voted by Parliament for the Junior Department alone amounted to 34,000 *l.* This sum gradually diminished until the income and expenditure were equalized, and from
2229. 1832 no vote of public money has been taken for the institution. Since 1832,
541. with the exception of a grant of 529 *l.* in 1839 to meet a special casualty, the
556. College appears to have paid its own expenses; indeed, until 1851, it was charged with the repairs of the building, which in the usual practice would have been charged to the Board of Works. The revenue of the College is derived from the payment of the cadets in the Junior Department, that of the officers in the Senior Department, and a small sum of about 60 *l.* received for rent. The receipt and expenditure of the College since 1832 will be found in a paper
541. put in by Mr. Houndle. For the year 1854, throwing aside a balance in hand of 2,220 *l.*, the income of the College amounted to 18,493 *l.*, while the expenditure was 17,731 *l.*, leaving a surplus of income over expenditure of 762 *l.* This state of things has not been effected without great efforts. In order to reduce the expenditure, the orphan class, who received their education free of expense,
750. was gradually reduced, and ultimately abandoned in 1822. The number of the establishment of the professors and teachers has been diminished, and the payment demanded from all classes of students largely increased.

In reviewing the present scale of salaries and expenditure, Your Committee are not prepared to recommend any reduction in the number or pay of the officers employed. The scale of remuneration appears moderate, and the number of professors and masters not more than adequate, if indeed adequate to the requirements of the students. In a subsequent part of their Report Your Committee may have to recommend a change in the duties of one of the military officers.

The salary of the secretary to the Central Board appears to have been raised
737. on special grounds from 100 *l.* to 150 *l.* In case of a vacancy, Your Committee consider it should be reduced to the smaller sum.

Under this head would properly be placed the suggestion that the stationery required for the College might be obtained through the Stationery Office where practicable.

The Government of the College.

Vide Warrant. The government of the College is vested in the Board of Commissioners. The official members, in addition to the Governor and Deputy Governor, are, the Commander-in-Chief, the Secretary-at-War, the Master-general of the Ordnance, the Quartermaster and Adjutant-general. It is obvious that the pressing and important duties which fall on these officers can leave them but little time to devote to the Military College. Your Committee concur in the principle of the warrant of 1808, which placed the ultimate authority in those at the head of the military departments; still they consider it would be advantageous if, without infringing this principle, a more active and steady interest were secured on the part of the Superintending Board. To effect this object it might perhaps be sufficient to add to the Board, as a sub-committee, a certain number of officers of professional and scientific acquirement, and whose duties would not prevent them from attending at the examinations, following the affairs of the College with interest, and carrying out those inquiries which Your Committee will have to recommend; this sub-committee, of course, having no executive power without the assent of the General Commission.

The Junior Department.

A boy, to be admitted on any of the classes, must make an application to the Governor; his name is then placed on the list, and he is brought forward in his turn; the rule of rotation is strictly adhered to. No applicant can be put on the list before 10 years of age. No candidate can be admitted into the College under 13, or above 15. 120. 127. 124.

Previous to entrance the Regulations prescribe that he must produce a certificate of good conduct from every master under whom he has been for the last three years. He is examined by the surgeon, who is to report whether he has any physical defect which might render him unfit for the service. He then passes an examination, in which he is required,— Paper issued by College. 141.

1. In English, to write from dictation.

2. In arithmetic; four first rules, simple and compound; vulgar and decimal fractions.

3. Algebra; addition, subtraction, multiplication, division.

4. Languages; either in Latin to construe a passage in "Cæsar;" or in French, one in "Vertôt's Revolutions of Sweden; or in German, from "Schiller's Revolt of the Netherlands;" in each case with parsing.

5. Geography; counties, chief towns, and rivers of Great Britain and Ireland.

6. To print the ordinary Roman character and Italics with neatness and facility.

This examination is conducted by the professors, in presence of the Collegiate Board, and appears to be made with considerable indulgence. On passing it the candidate is admitted on probation for one year, and he is informed that if, during any part of that period, his conduct is such as to make it obvious that his longer stay would be either hurtful to the institution or wholly unprofitable to himself, he will be sent back to his friends. 142. 7147.

The attention of the cadet is first directed to arithmetic and algebra, and as soon as he has gone through the full course in these studies he is examined; and if he passes, becomes so far qualified to be removed into the upper school. A certain amount of French and history is also required to qualify the cadet to enter the upper school. In the lower school there are four classes, and an examination in each. 150. 152. 154.

On entering the upper school the cadet begins Euclid, and when he has read six books he is taken out by the professors to trace the ground problems. When he has done these he is qualified to begin surveying and fortification, and to study trigonometry. He must also acquire a facility in drawing and practical manipulation of mathematical instruments. 152. 161.

No further mathematical acquirements are required by the course, but the extra time at the close is employed in the higher mathematics, in mechanics, and the attack and defence of places. 163. 165. 170.

The other studies carried on at the junior department may be best explained by stating the examination which takes place when the cadet goes up to pass, with the view of his obtaining his commission.

A cadet, to obtain his commission, must pass in six steps; three are fixed in which he must pass, the other three are at his own choice, out of the branches studied. 181.

1. Euclid; six books.

2. Fortification; by which is understood permanent and field fortification, theoretical and practical, including sapping and mining, pontooning, and field entrenchments on the field. 247.

3. Surveying; in which he must have done four actual surveys on the ground, besides the amount of drawing required in the hall of practical plan drawing.

These three steps, or courses of study, are compulsory, and without passing through these no cadet can pass the final examination.

4. History, English, European; Greek and Roman History.

5. Geography, including the working of geographical problems on the globes.

6. Latin; to translate Livy, with parsing, and to turn English into Latin.

7. Grammar; French into English and English into French.

8. German; the same.

Out of these last five the cadet must take up three, in addition to the three compulsory. He is at liberty to select these three according to his own wishes.

But it would be incorrect to suppose the cadet is ignorant of the branches that he does not take up. A certain knowledge of some of these branches is by the regulations of the College necessary before the cadet is allowed to pass into classes where the studies which are compulsory are taught; thus, no cadet can go up for his final examination without a knowledge of the French and the German grammars, whether he takes up those languages or not. 236.

Upon the regulations of the College and the studies pursued Your Committee have received much and conflicting evidence; there is scarcely a point to which objections have not been made, sometimes contradictory. It is objected that the indulgence shown on entrance allows the admission of boys who labour under serious physical defects; that the standard on entrance should be raised; that the subjects should have more reference to the military profession, and the standard be strictly adhered to; that the age is too young, the system of steps wrong, the instruction in mathematics carried too far; that the amount required is, after all, too low; that the choice left to the student of selecting the steps in which he is to pass is injurious; that the examination should be conducted by examiners unconnected with Sandhurst. 990. 706. 998. 1008. 814. 1069.

Your Committee offer any opinion on the details of the education, and the mode in which it is carried on, with much hesitation. They concur in the opinion that the rule respecting physical defects should be strictly enforced. They see no reason to alter the age of entrance or to raise the standard on entrance. They are inclined to think that the present system of steps is capable of improvement, and that the introduction of military history would be beneficial; and they believe it might be an improvement if the examinations were conducted by parties unconnected with the College.

They would suggest that the Commissioners should by a committee of the Board carefully consider the course of study, and make such alterations as may be considered requisite; the education ought to be of a military character, but Your Committee would see with regret that all studies not strictly military were banished from the course, or that the pursuit of the higher branches of science was prohibited under all circumstances by any inflexible rule.

Having in as condensed a form as practicable given an account of the studies of the junior department, and made such suggestions as belong to that portion of the subject, Your Committee proceed to consider the number of cadets admitted into the College, their classification and the payments made by them.

The following are the classes, and rates of subscription, upon which candidates are admitted into the Royal Military College:

First Class.

Notice issued by the College.

The sons of all officers in the army, under the rank of field officers, including surgeons and paymasters; and the orphans of officers of whatever rank in the army, and of commanders, and officers of rank superior thereto, of the Royal Navy, who have died in the service, and are proved to have left families in *pecuniary distress*; to pay - - - 40 *l.* per annum

SECOND CLASS.

The sons of regimental field officers; and of captains, under three years' rank, and commanders of the Navy - - - - - 50 *l.* per annum

The sons of colonels and lieutenant-colonels, having corps, and of captains of the Navy of three years' rank - - - - - 70 *l.* per annum

The sons of all flag and general officers - - - 80 *l.* per annum

THIRD CLASS.

The sons of private gentlemen and noblemen - - 125 *l.* per annum

The whole number, according to the present regulations, would amount (if full) to 180; of these 25 in the first class, 50 in the second, 105 of the third; the numbers actually on the books were 23 of the first class at 40 *l.*, in the second 22 at 50 *l.*, none at 70 *l.*, 1 at 80 *l.* In the third class 114 at 125 *l.* The numbers at present are low, as in consequence of the war, Commissions have been given away with more than usual rapidity. 219. 108. Army Estimate

It is necessary to consider these classes and the payment with reference to the finances of the College.

The expenditure for 1855–56, is estimated at 17,795 *l.* If from this we deduct 450 *l.* received from the senior department, and 61 *l.* for rent, there will remain 17,284 *l.* to be supplied by the payments of the cadets. Taking the second class at 30, paying 50 *l.* per annum, 10 paying 70 *l.*, and 10 paying 80 *l.*, and supposing the whole number to be full, according to the present regulations the payments of the cadets will not amount to the sum required, much less meet any accidental contingency. The result is that the College, in order to meet its expenditure, is compelled to increase the number of the third class, and to diminish those classes which either do not pay their expenses, or pay no more than their mere share. Army Estimat

At present, the number of applicants for the first class is large, and exceeds the number of vacancies; and even when the nomination is obtained, the widow of an officer who has fallen in the service of the country is compelled to pay 40*l.* per annum in a public establishment for the education of her orphan child; and it appears to Your Committee, that any attempt to remedy this by adding to the number of the third class, would rather increase the evil, and still further limit the number of those who are the proper objects of favour.

In addition to the payments made by the regulation, there are other charges, which are included in the bills, and paid separately. Your Committee consider these charges should be strictly revised and reduced where possible.

Your Committee are unanimously of opinion that the claims of the orphans of our Army, Navy, and Marine officers are entitled to more favourable consideration than they now receive, and that the institution should be put more in harmony with the humane and just views of the Royal Warrant of 1808; and they have no hesitation in recommending an appeal to the liberality of Parliament for such a purpose.

Your Committee would suggest that 20 Queen's cadetships should be created, 10 to be filled up this year, and 10 the next. That these cadetships should be confined to the sons of officers in the Army, Navy, and Marines who have fallen in action or have died of wounds received in action, or of diseases contracted on active service, and who have left their families in reduced circumstances. That these cadetships should not be given by priority of application, but by selection, having reference to the services of the father and the circumstances of the family. That the selection should be made by the Commander-in-chief for the Army, and the First Lord of the Admiralty for the Navy and Marines; that the nomination should be made by them, accompanied by a declaration, written in their own hand and signed by them, that (having reference to the services of the father and the circumstances of the family) the party named has, in their judgment, the best claims for the appointment of all who have applied.

These cadets should be subject to the examination on entrance, and to all the other rules and regulations of the College, as other cadets; they should receive

their education free of expense, and be relieved from the payment for books, &c.; and Your Committee would recommend that if their conduct shall have been perfectly satisfactory, and they shall have passed their final examination well, they should receive the same outfit as is granted to an officer promoted from the ranks.

85. 100. The fair payment of a cadet for his board and education has been calculated at 80 *l.* This is possibly somewhat under-rated. To this, however, something must be added for payments for books, &c. from which the Queen's Cadet should be free, which would bring the expense of each cadet to 100 *l.*; and if it should please Her Majesty to sanction by warrant the appointment of such Cadets, Your Committee would suggest that the estimates for the Military College should contain a special item, based on this calculation, "in aid of the "funds of the College for the gratuitous education of 20 Queen's Cadets, being "the sons of officers who have died in the service of their country, and whose "families are in reduced circumstances."

Your Committee trust that by this vote, and by some arrangements which they have to propose in the senior department, the funds of the junior department will, to a small extent, be relieved; and that the educational staff of the College may receive such increase as would appear to be required.

The Senior Department.

Senior Department. 2313. Life of General Le Marchant. 2310. 2308. The senior department was created before the junior. Its object is stated in the Royal Warrant. From the evidence of Sir Howard Douglas and other sources of information, it would appear that the creation of such an institution was advocated by Sir R. Abercromby and other officers of high character. In earlier years it sent into the service many very valuable officers, most of whom served on the staff; and during the Peninsular War, when the general staff was very efficient, a great part of the quartermaster-general's staff was composed of officers who had been educated at the senior department.

2343. As a proof of the value attached by practical officers of high character to the instruction given at the senior department, it may be mentioned that Sir Charles Napier, at the age of 35, came to the College, "insisted on going through the course as others did, went to the black board and demonstrated his problems, passed his examination and obtained his certificate." The same thing was done by Sir William Napier; and Sir Howard Douglas states that when he was at the head of the senior department he has had three, four, and five lieutenant-colonels under instruction at a time.

Vide Papers delivered in by Sir H. Douglas. Appendix. It appears also that the greatest attention is paid by foreign governments to the instruction of staff officers. Much evidence was given by Sir Howard Douglas, Mr. Godwin, and other witnesses, on this point.

Your Committee have thought it advisable to point out the value attached to the senior department, which appears to be the only institution in which an officer not in the Artillery or Engineers can obtain instruction in the more scientific branches of his profession. They now proceed to consider the present state of that department.

2286. In earlier times the senior department had its own military staff. General Le Marchant was attached to it. General Jarry, an eminent officer who had been on the staff of Frederick the Second during his campaigns, was engaged as scientific instructor, and a sufficient number of professors for fortification, for mathematics and languages, were attached to the department.

372. At the present moment two professors compose the whole establishment exclusively attached to the senior department. M. Narrien, the senior professor of mathematics, teaches, in addition to his own proper branch, fortification, gunnery, tactics, castrametation. The other professor teaches military surveying. Languages are taught by aid of the professors of the junior department, paid for by the cadets, and, as Your Committee are inclined to believe, when there is ample demand on their exertions and all their time for instructing the cadets.

Your Committee are of opinion that this state of things is unsatisfactory, and requires revision and reform. They wish to throw no blame, directly or indirectly,

rectly, on the professors employed; on the contrary, Your Committee believe that it is to the exertions mainly of M. Narrien that the senior department owes its efficiency; and they consider it highly creditable that so much appears to have been attained by means so inadequate.

Your Committee are of opinion that a military officer should be placed on the separate staff of the senior department; of course under the Governor and Deputy Governor. This Your Committee consider requisite even now; but such an arrangement will be still more necessary if the officers of the senior department shall be employed at the camps of instruction. Your Committee believe that one of the military officers now employed on the staff of the junior department may be transferred to the senior department without injury to the efficiency of the former department.

But Your Committee are of opinion that this change, though necessary, is not sufficient, and they see no means of placing the senior department on an efficient footing, unless Parliament is prepared to grant aid to this important object. At the present time the number of officers studying is fixed at 15; each of these pay 30*l.* This sum goes only in part payment, and the salaries of the professors and of the establishment are charged on the cadets. Your Committee cannot see the justice by which the cadet is called upon to pay for the education of the staff officer; it seems hard that his education should be stinted because the money he pays is diverted to an object entirely different. It is true the efficiency of the senior department is of great importance in a military view; but if so, it is just that the payment should fall on the nation, and not on the parents of a few cadets. Your Committee propose that a new arrangement should be made; that the staff and professors required for the senior department should be separated from the expenditure of the junior department; and that, instead of a superintendent of studies on the staff of the junior department, that appointment should be reduced, and an officer placed at the head of the senior department. 417. 418.

Your Committee would recommend that a sub-committee of the Board of Commissioners, or a committee of general officers, should be directed to consider the course of study for the senior department, and report thereon; and that the Board, if they approve, shall then frame such an establishment of professors and masters as will carry this course into effect with due regard to economy; and that this establishment, when approved by the Secretary for War, should form the basis for a vote of Parliament.

Your Committee cannot recommend that the payment of officers should be increased; it may be prudent to continue the present payment, which perhaps serves as a check to officers becoming students without serious views of study, but any contribution which would adequately meet the expenditure would be a heavy call on the income of a young officer, and practically increase the difficulty for officers of small means to avail themselves of the senior department.

Your Committee must add one remark. They have not shrunk from recommending that Parliament should be called upon to vote money to render the senior department efficient; but if Parliament grant the money, Your Committee consider that officers so educated, if otherwise fit, should not be neglected in appointments to the staff. The expectations of Parliament in granting the funds, and the labours of officers who have undergone a severe course of study, should not be overlooked. Your Committee have the satisfaction of observing, that some cases have come before them from which they are led to believe that Lord Hardinge has not lost sight of this important point. 453.

Your Committee believe that it will be of great advantage to the officers under instruction in the senior department if arrangements were made by which they should be employed at the camps of instruction. They also suggest that facilities should be given to officers who have passed the senior department with good certificates of attending the course at Chatham and at Woolwich, and they should be attached to cavalry or infantry regiments, so that they may become acquainted with all the branches of the profession.

In the course of their inquiries, Your Committee have received much information and obtained opinions on the expediency of forming a separate staff corps, as it exists in France, and as to the advantage of officers obtaining a certificate and passing an examination previous to their being placed on the staff; but as

the discipline of the Army rests with Her Majesty, Your Committee can only call the attention of the military authorities to these subjects.

General Examination of Candidates for Commission.

486. The examination of candidates for general commissions, either with or without purchase, takes place at Sandhurst, and is made by the professors there, in the presence of the Lieutenant-governor.

The examination takes place in writing English from dictation, in history, geography, arithmetic, algebra, fortification, and in one of three languages, at the option of the candidate. It is conducted *vivâ voce* where possible, and if the 1000. candidate answers the *vivâ voce* questions satisfactorily, he is at once passed. In case there be doubt as to any particular branch, a number of questions are put 1600. to him on paper, of which he is expected to answer a certain proportion.

487. The decision on each branch is made separately, and if the candidate does not pass, the papers are forwarded to the Commander-in-Chief, with whom rests the ultimate decision. In cases where the Deputy Governor and professors are of opinion that the candidate has had "the education of a gentleman," although he may have failed in some particular branch, their opinion is made known to 520. the Commander-in-Chief by a special mark.

488. The Commander-in-Chief, if he still thinks the candidate ought not to receive his commission, gives him a second chance. A second examination takes place after a reasonable delay, and the candidate is examined in the branches in which he before failed.

Your Committee do not consider the examination of candidates for the army is included in the order of reference. One branch only of examination is military; Your Committee were informed that the knowledge in fortification 504. required would easily be mastered in a week.

The subject of the education in the army was not referred to Your Committee, and they do not feel themselves authorised to give any opinion or make any observation on this important matter. Much information is contained in the Evidence, from which it will appear that the attention of the military authorities has been called to the subject. Mr. Sidney Herbert appears to have had under *See* paper in Appendix. consideration a plan by which officers might obtain some instruction in the higher branches of their profession without being withdrawn from their regimental duties.

In closing this Report, it is but just to the military staff, and to the professors and masters of Sandhurst, that Your Committee should state that the examination and the evidence have left on their minds a favourable impression as to the manner in which the duties are performed at the Royal Military College.

18 *June* 1855.

PROCEEDINGS OF THE COMMITTEE.

Jovis, 19° *die Aprilis*, 1855.

MEMBERS PRESENT:

Sir Francis Baring.	Viscount Monck.
Lord Lovaine.	Mr. Monckton Milnes.
Colonel North.	Sir George Tyler.

Sir FRANCIS BARING was called to the Chair.

The Committee deliberated on the course of proceeding.

[Adjourned to Tuesday, at Twelve.

Martis, 24° *die Aprilis*, 1855.

MEMBERS PRESENT:

Sir FRANCIS BARING, in the Chair.

Sir George Tyler.	Mr. Hardinge.
Colonel North.	Mr. Rich.
Colonel Dunne.	Viscount Monck.
Mr. Shafto Adair.	Mr. MonctonM ilnes.
Lord Lovaine.	

The Committee examined Colonel *Prosser*.

[Adjourned to Friday, at Twelve.

Veneris, 27° *die Aprilis*, 1855.

MEMBERS PRESENT:

Sir FRANCIS BARING, in the Chair.

Colonel North.	Lord Lovaine.
Mr. Shafto Adair.	Mr. Monckton Milnes.
Mr. Rich.	Mr. Hardinge.
Colonel Dunne.	Viscount Monck.
Sir George Tyler.	

The Committee examined Mr. *Houndle* and Major *Addison*.

[Adjourned to Tuesday, at Twelve.

Martis, 1° *die Maii*, 1855.

MEMBERS PRESENT:

Sir FRANCIS BARING, in the Chair.

Colonel North.	Mr. Monckton Milnes.
Lord Lovaine.	Mr. Rich.
Sir George Tyler.	Viscount Monck.
Mr. Shafto Adair.	Mr. Hardinge.
Colonel Dunne.	

The Committee examined Lieutenant-colonel *Adams* and Mr. *Cunliffe*.

[Adjourned to Friday, at Twelve.

Veneris, 4° *die Maii*, 1855.

MEMBERS PRESENT:

Sir FRANCIS BARING, in the Chair.

Colonel North.	Viscount Monck.
Mr. Rich.	Mr. Hardinge.
Sir George Tyler.	Mr. Monckton Milnes.
Lord Lovaine.	

The Committee examined Sir *John Burgoyne* and the Rev. *A. Chapmell*.

[Adjourned to Tuesday, at Twelve o'clock.

Martis, 8° *die Maii*, 1855.

MEMBERS PRESENT:

Sir FRANCIS BARING, in the Chair.

Colonel North.	Colonel Dunne.
Sir George Tyler.	Lord Lovaine.
Mr. Monckton Milnes.	Viscount Monck.
Mr. Hardinge.	

The Committee examined Lieutenant-general *Wetherall*, the Adjutant-general; the Rev. *George Edward Cole*, and Mr. *Godwin*.

[Adjourned to Tuesday, 15th May, at Twelve.

Martis, 15° *die Maii*, 1855.

MEMBERS PRESENT:

Sir FRANCIS BARING, in the Chair.

Lord Lovaine.	Mr. Shafto Adair.
Sir George Tyler.	Viscount Monck.
Colonel Dunne.	Colonel North.
Mr. Hardinge.	Mr. Monckton Milnes.

The Committee examined Lieutenant-general Sir *Howard Douglas*.

[Adjourned.

Veneris, 25° *die Maii*, 1855.

MEMBERS PRESENT:

Sir Francis Baring, in the Chair.

Lord Lovaine.	Mr. Hardinge.
Sir George Tyler.	Mr. Shafto Adair.
Colonel Dunne.	Colonel North.
Mr. Rich.	

The Committee deliberated.

[Adjourned *sine die*.

Veneris, 15° *die Junii*, 1855.

MEMBERS PRESENT:

Sir Francis Baring, in the Chair.

Mr. Rich.	Sir George Tyler.
Colonel Dunne.	Viscount Monck.
Mr. Monckton Milnes.	Colonel North.
Lord Lovaine.	

Draft Report proposed by the *Chairman* read 1°, as follows:

" The Institution owes its foundation to the exertions of General Le Marchant. It commenced, as a place of instruction for officers, in 1799. In 1801 the Junior Department was organised; the united Departments took the name of the Royal Military College, and His Majesty George the Third was pleased by Royal Warrant to appoint a supreme Board of Commissioners for the purpose of managing all the affairs of the College.

Tenth Report of Commissioners of Military Inquiry.

Life of General Le Marchant.

" An establishment and a course of study were recommended by this Board, and adopted in a Royal Warrant passed in the same year, 1801. From this date warrants were issued from time to time until the warrant of 1808, which cancels all former warrants, and still regulates the College.

" By this warrant a Board of Commissioners was appointed consisting of the Commander-in-chief, the Secretary at War, the Master-general of the Ordnance, the Quartermaster-general, the Adjutant-general, the Governor, and Deputy-governor of the College—all for the time being; certain other officers were added to these *ex-officio* members. In the Board so constituted was vested the control, direction, and management of all the affairs of the College. The College was to be under the immediate command of the Governor and Deputy-governor, to be divided into a senior and junior department, each to have its own course of study under the direction of its own staff.

Vide Warrant.

Tenth Report of Commissioners of Military Inquiry, Appendix.

" A collegiate Board was created to take cognizance of all matters relating to the interior economy of both departments. This Board consisted of the Governor, the Deputy-governor, and three other resident military authorities of the College.

" ' The Senior Department is stated in the Royal Warrant to be established for the purpose of instructing officers in the scientific part of their profession, with the view of enabling them better to discharge their duty when acting in command of regiments (the situation in which they can best recommend themselves to us, and be entitled to hope for advancement in the higher stations of our service), and at the same time of qualifying themselves to be employed in the Quartermaster-general and Adjutant-general's departments.'

" ' The Junior Department,' the Warrant states, ' is appropriated to the instruction of those who from early life are intended for the military profession, and who by this means may be grounded in science previous to obtaining commissions in our army. This department is also intended to afford a provision for the sons of meritorious officers who have fallen or been disabled in the service of their country, and the means of education to the sons of those officers who belong to our regular service.'

" Having stated the objects of the Institution, and the form of government under which it was proposed to effect these objects, Your Committee proceed to report on the present state of the College, and how far the objects proposed are now carried out. They will do so under separate heads, and will append to each head the observations and recommendations which their inquiry may have suggested.

"EXPENDITURE.

"Your Committee feel it unnecessary to enter into any detailed history of the expenditure of the College. The evidence of Mr. Houndle and Sir H. Douglas will furnish ample information on this point. In 1815, the sum voted by Parliament for the Junior Department alone amounted to 34,000 *l.* This sum gradually diminished until the income and expenditure were equalized, and from 1832 no vote of public money has been taken for the
2229. institution. Since 1832, with the exception of a grant of 529 *l.* in 1839 to meet a special
541. casualty, the College appears to have paid its own expenses; indeed, until 1851, it was
556. charged with the repairs of the building, which in the usual practice would have been charged to the Board of Works. The revenue of the College is derived from the payment of the cadets in the Junior Department, that of the officers in the Senior Department, and a small sum of about 60 *l.* received for rent. The receipt and expenditure of the College since 1832 will be found in a paper put in by Mr. Houndle. For the year 1854, throwing aside a balance in hand of 2,220 *l.*, the income of the college amounted to 18,493 *l.*, while the expenditure was 17,731 *l.*, leaving a surplus of income over expenditure of 762 *l.* This state of things has not been effected without great efforts. In order to reduce the expenditure, the orphan class, who received their education free of expense, was gradually reduced,
750. and ultimately abandoned in 1822. The number of the establishment of the professors and teachers has been diminished, and the payment demanded from all classes of students largely increased.

"In reviewing the present scale of salaries and expenditure, Your Committee are not prepared to recommend any reduction in the number or pay of the officers employed. The scale of remuneration appears moderate, and the number of professors and masters not more than adequate, if indeed adequate to the requirements of the students. In a subsequent part of their Report Your Committee may have to recommend a change in the duties of one of the military officers.

"The salary of the secretary to the Central Board appears to have been raised on special grounds from 100 *l.* to 150 *l.* In case of a vacancy, Your Committee consider it should be at the smaller sum.

"Under this head would properly be placed the suggestion that the stationery required for the College might be best obtained through the Stationery Office.

"THE GOVERNMENT OF THE COLLEGE.

"The government of the College is vested in the Board of Commissioners. The official members, in addition to the Governor and Deputy Governor, are, the Commander-in-Chief, the Secretary-at-War, the Master-general of the Ordnance, the Quartermaster and Adjutant-general. It is obvious that the pressing and important duties which fall on these officers can leave them but little time to devote to the Military College. Your Committee concur in the principle of the Warrant of 1808, which placed the ultimate authority in those at the head of the military departments; still they consider it would be advantageous if, without infringing this principle, a more active and steady interest were secured on the part of the Superintending Board. To effect this object, it might perhaps be sufficient to add to the Board, as a sub-committee, a certain number of officers of station, character, and scientific acquirement, and whose duties would not prevent them from attending at the examinations, following the affairs of the College with interest, and carrying out those inquiries which Your Committee will have to recommend; this sub-committee, of course, having no executive power without the assent of the General Commission.

"THE JUNIOR DEPARTMENT.

"A boy, to be admitted on any of the classes, must make an application to the Governor; his name is then placed on the list, and he is brought forward in his turn; the rule of rotation is strictly adhered to. No applicant can be put on the list before 10 years of age. No candidate can be admitted into the college under 13, or above 15.

"Previous to entrance he must produce a certificate of good conduct from every master under whom he has been for the last three years. He is examined by the surgeon, who is to report whether he has any physical defect which might render him unfit for the service. He then passes an examination, in which he is required,—

"1. In English, to write from dictation.

"2. In arithmetic; four first rules, simple and compound; vulgar and decimal fractions.

"3. Algebra; addition, subtraction, multiplication, division.

"4. Languages; either in Latin to construe a passage in 'Cæsar;' or in French, one in 'Vertôt's Revolutions of Sweden; or in German, from 'Schiller's Revolt of the Netherlands;' in each case with parsing.

"5. Geography; counties, chief towns, and rivers of Great Britain and Ireland.

"6. To print the ordinary Roman character and Italics with neatness and facility.

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"This examination is conducted by the professors, in presence of the Collegiate Board, and appears to be made with considerable indulgence. On passing it the candidate is admitted on probation for one year, and he is informed that if, during any part of that period, his conduct is such as to make it obvious that his longer stay would be either hurtful to the institution or wholly unprofitable to himself, he will be sent back to his friends.

"The attention of the cadet is first directed to arithmetic and algebra, and as soon as he has gone through the full course in these studies he is examined; and if he passes, becomes so far qualified to be removed into the upper school. A certain amount of French and history is also required to qualify the cadet to enter the upper school. In the lower school there are four classes, and an examination in each.

"On entering the upper school the cadet begins Euclid, and when he has read six books he is taken out by the professors to trace the ground problems. When he has done these he is qualified to begin surveying and fortification, and to study trigonometry. He must also acquire a facility in drawing and practical manipulation.

"No further mathematical acquirements are required by the course, but the extra time at the close is employed in the higher mathematics, in mechanics, and the attack and defence of places.

"The other studies carried on at the junior department may be best explained by stating the examination which takes place when the cadet goes up to pass, with the view of his obtaining his commission.

"A cadet, to obtain his commission, must pass in six steps; three are fixed in which he must pass, the other three are at his own choice, out of the branches studied.

"1. Euclid; six books.

"2. Fortification; by which is understood permanent and field fortification, theoretical and practical, including sapping and mining, pontooning, and field entrenchments on the field.

"3. Surveying; in which he must have done four actual surveys on the ground, besides the amount of drawing required in the hall of practical plan-drawing.

"These three steps or courses of study are compulsory, and without passing through these no cadet can pass the final examination.

"4. History, English, European; Greek and Roman History.

"5. Geography, including the working of geographical problems on the globes.

"6. Latin; to translate Livy, with parsing, and to turn English into Latin.

"7. Grammar; French into English, and English into French.

"8. German; the same.

"Out of these last five the cadet must take up three, in addition to the three compulsory. He is at liberty to select these three according to his own wishes.

"But it would be incorrect to suppose the cadet is ignorant of the branches that he does not take up. A certain knowledge of some of these branches is by the regulations of the College, necessary before the cadet is allowed to pass into classes where the studies which are compulsory are taught; thus, no cadet can go up for his final examination without a knowledge of the French and the German grammars, whether he takes up those languages or not. 236.

"Upon the regulations of the College and the studies pursued Your Committee have received much and conflicting evidence; there is scarcely a point to which objections have not been made, sometimes contradictory. It is objected that the indulgence shown on entrance allows the admission of boys who labour under serious physical defects, such as stuttering; that the standard on entrance should be raised, the subjects have more reference to the military profession, and the standard strictly adhered to; that the age is too young, the system of steps wrong, the instruction in mathematics carried too far; that the amount required is, after all, too low; that the choice left to the student of selecting the steps in which he is to pass is injurious; that the examination should be conducted by examiners unconnected with Sandhurst. 990. 706. 998. 1008. 814. 1069.

"Your Committee offer any opinion on the details of the education, and the mode in which it is carried on, with much hesitation. They concur in the opinion that the rule respecting physical defects should be strictly enforced. They see no reason to alter the age of entrance, or to raise the standard on entrance. They are inclined to think that the present system of steps is capable of improvement, and that the introduction of military history would be beneficial; and they believe it might be an improvement if the examinations were conducted by parties unconnected with the College.

"They would suggest that the Commissioners should, by a committee of the Board, carefully consider the course of study, and make such alterations as may be considered requisite; the education ought to be of a military character, but Your Committee would see with regret that all studies not strictly military were banished from the course, or

that the pursuit of the higher branches of science was prohibited, under all circumstances, by any inflexible rule.

"Having, in as condensed a form as practicable, given an account of the studies of the junior department, and made such suggestions as belong to that portion of the subject, Your Committee proceed to consider the number of cadets admitted into the College, their classification, and the payments made by them.

"The following are the classes, and rates of subscription, upon which candidates are admitted into the Royal Military College:

"First Class.

"The sons of all officers in the army, under the rank of field officers, including surgeons and paymasters; and the orphans of officers of whatever rank in the army, and of commanders, and officers of rank superior thereto, of the Royal Navy, who have died in the service, and are proved to have left families in *pecuniary distress*; to pay 40 *l.* per annum

"Second Class.

"The sons of regimental field officers, and of captains under three years' rank, and commanders of the Navy - - - - - - - - 50 *l.* per annum

"The sons of colonels and lieutenant-colonels, having corps, and of captains of the Navy of three years' rank - - - - - - - - - 70 *l.* per annum

"The sons of all flag and general officers - - - - - 80 *l.* per annum

Third Class.

"The sons of private gentlemen and noblemen - - - - 125 *l.* per annum

219. "The whole number, according to the present regulations, would amount (if full) to 180; of these 25 in the first class, 50 in the second, 105 in the third; the numbers actually on the books were 23 of the first class at 40 *l.*, in the second 22 at 50 *l.*, none at 70 *l.*, 1 at 80 *l.* In the third class 114 at 125 *l.* The numbers at present are low, as in consequence of the war, commissions have been given away with more than usual rapidity.

"It is necessary to consider these classes and the payment with reference to the finances of the College.

"The expenditure for 1855–56 is estimated at 17,795 *l.* If from this we deduct 450 *l.* received from the senior department, and 61 *l.* for rent, there will remain 17,284 *l.* to be supplied by the payments of the cadets. Taking the second class at 30, paying 50 *l.* per annum, 10 paying 70 *l.*, and 10 paying 80 *l.*, and supposing the whole number to be full, according to the present regulations the payments of the cadets will not amount to the sum required, much less meet any accidental contingency. The result is that the College, in order to meet its expenditure, is compelled to increase the number of the third class, and to diminish those classes which either do not pay their expenses, or pay no more than their mere share.

"At present, the widow of an officer who has fallen in the service of the country is compelled to pay 40 *l.* per annum in a public establishment for the education of her orphan child; and even of this she is not sure, for the number of applicants for the first class is large, and exceeds the number of vacancies; and it appears to Your Committee, that any attempt to remedy this by adding to the number of the third class, would rather increase the evil, and still further limit the number of those who are the proper objects of favour.

"Your Committee are unanimously of opinion that the claims of the orphans of our Army, Navy, and Marine officers are entitled to more favourable consideration than they now receive, and that the institution should be put more in harmony with the humane and just views of the Royal Warrant of 1808; and they have no hesitation in recommending an appeal to the liberality of Parliament for such a purpose.

"Your Committee would suggest that 20 Queen's cadetships should be created, 10 to be filled up this year, and 10 the next. That these cadetships should be confined to the sons of officers in the Army, Navy, and Marines who have fallen in action or have died of wounds received in action, and who have left their families in reduced circumstances. That these cadetships should not be given by priority of application, but by selection, having reference to the services of the father and the circumstances of the family. That the selection should be made by the Commander-in-chief for the Army, and the First Lord of the Admiralty for the Navy; that the nomination should be made by them, accompanied by a declaration, written in their own hand and signed by them, that (having reference to the services of the father and the circumstances of the family) the party named has, in their judgment, the best claims for the appointment of all who have applied.

"These cadets should be subject to the examination on entrance, and to all the other rules and regulations of the College, as other cadets; they should receive their education free of expense, and be relieved from the payment for books, &c.; and Your Committee would

would recommend that if their conduct shall have been perfectly satisfactory, and they shall have passed their final examination well, they should receive the same outfit as is granted to an officer promoted from the ranks.

" The fair payment of a cadet for his board and education has been calculated at 80*l.* This is possibly somewhat under-rated. To this, however, something must be added for payments for books, &c., from which the Queen's cadet should be free, which would bring the expense of each cadet to 100*l.*; and if it should please Her Majesty to sanction by warrant the appointment of such cadets, Your Committee would suggest that the estimates for the Military College should contain a special item, based on this calculation, ' in aid of ' the funds of the College for the gratuitous education of 20 Queen's cadets, being the sons ' of officers who have fallen in the service of their country, and whose families are in reduced ' circumstances.'

" Your Committee trust that by this vote, and by some arrangements which they have to propose in the senior department, the funds of the junior department will, to a small extent, be relieved; and that the educational staff of the College may receive such increase as would appear to be required.

" The Senior Department.

" The senior department was created before the junior. Its object is stated in the Royal Warrant. From the evidence of Sir Howard Douglas and other sources of information, it would appear that the creation of such an institution was advocated by Sir R. Abercromby and other officers of high character. It has sent into the service many very valuable officers, most of whom served on the staff; and during the Peninsular War, when the general staff was very efficient, a great part of the quartermaster-general's staff was composed of officers who had been educated at the senior department. Senior Department. 2313. Life of General Le Marchant. 2310. 2308.

" As a proof of the value attached by practical officers of high character to the instruction given at the senior department, it may be mentioned that Sir Charles Napier, when above the age of 40, came to the college, ' insisted on going through the course as others did, went ' to the black board and demonstrated his problems, passed his examination, and obtained ' his certificate.' The same thing was done by Sir William Napier; and Sir Howard Douglas states that when he was at the head of the senior department he has had three, four, and five lieutenant-colonels under instruction at a time.

" It appears also that the greatest attention is paid by foreign governments to the instruction of staff officers. Much evidence was given by Sir Howard Douglas, Mr. Godson, and other witnesses, on this point.

" Your Committee have thought it advisable to point out the value attached to the senior department, which appears to be the only institution in which an officer not in the Artillery or Engineers can obtain instruction in the more scientific branches of his profession. They now proceed to consider the present state of that department.

" In earlier times the senior department had its own military staff. General Le Marchant was attached to it. General Jarry, an eminent officer, who had been on the staff of Frederick the Second during his campaigns, was engaged as scientific instructor, and a sufficient number of professors for fortification, for mathematics and languages, were attached to the department.

" At the present moment two professors compose the whole establishment exclusively attached to the senior department. M. Narrien, the senior professor of mathematics, teaches, in addition to his own proper branch, fortification, gunnery, tactics, castrametation. The other professor teaches military surveying. Languages are taught by aid of the professors of the junior department, paid for by the cadets, and, as Your Committee are inclined to believe, when there is ample demand on their exertions and all their time for instructing the cadets.

" Your Committee are of opinion that this state of things is unsatisfactory, and requires revision and reform. They wish to throw no blame, directly or indirectly, on the professors employed; on the contrary, Your Committee believe that it is to the exertions mainly of M. Narrien that the senior department owes its efficiency; and they consider it highly creditable that so much appears to have been attained by means so inadequate.

" Your Committee are of opinion that a military officer should be placed on the separate staff of the senior department; of course under the Governor and Deputy Governor. This Your Committee consider requisite even now; but such an offer will be still more necessary if the officers of the senior department shall be employed at Aldershott. Your Committee believe that one of the military officers now employed on the staff of the junior department may be transferred to the senior department without injury to the efficiency of the junior department.

" But Your Committee are of opinion that this change, though necessary, is not sufficient, and they see no means of placing the senior department on an efficient footing, unless Parliament is prepared to grant aid to this important object. At the present time the number of officers studying is fixed at 15; each of these pay 30*l.* This sum goes only in

part payment, and the salaries of the professors and of the establishment are charged on the cadets. Your Committee cannot see the justice by which the cadet is called upon to pay for the education of the staff officer; it seems hard that his education should be stinted because the money he pays is diverted to an object entirely different. It is true the efficiency of the senior department is of great importance in a military view; but if so, it is just that the payment should fall on the nation, and not on the parents of a few cadets. Your Committee propose that a new arrangement should be made; that the staff and professors required for the senior department should be separated from the expenditure of the junior department; and that, instead of a superintendent of studies on the staff on the junior department, that appointment should be reduced, and an officer placed at the head of the senior department.

" Your Committee would recommend that a sub-committee of the Board of Commissioners, or a committee of general officers, should be directed to consider the course of study for the senior department, and report thereon; and that the Board, if they approve, shall then frame such an establishment of professors and masters as will carry this course into effect with due regard to economy; and that this establishment, when approved by the Secretary for War, should form the basis for a vote of Parliament.

" Your Committee cannot recommend that the payment of officers should be increased; it may be prudent to continue the present payment, which perhaps serves as a check to officers becoming students without serious views of study, but any contribution which would adequately meet the expenditure would be a heavy call on the income of a young officer, and practically increase the difficulty for officers of small means to avail themselves of the senior department.

" Your Committee must add one remark. They have not shrunk from recommending that Parliament should be called upon to vote money to render the senior department efficient; but if Parliament grant the money, Your Committee consider that officers so educated, if otherwise fit, should not be neglected in appointments to the staff. The expectations of Parliament in granting the funds, and the labours of officers who have undergone a severe course of study, should not be entirely overlooked. Your Committee have the satisfaction of observing, that some cases have come before them from which they are led to believe that Lord Hardinge has not entirely lost sight of this important point.

" Your Committee believe that it will be of great advantage to the officers under instruction in the senior department if arrangements were made by which they should be employed at the camp at Aldershott. They also suggest that facilities should be given to officers who have passed the senior department with good certificates of attending the course at Chatham and at Woolwich, and serving in a cavalry or infantry regiment, so that they may become acquainted with all the branches of the profession.

" In the course of their inquiries, Your Committee have received much information and obtained opinions on the expediency of forming a separate staff corps, as it exists in France, and as to the expediency of officers obtaining a certificate and passing an examination previous to their being placed on the staff.

" The discipline of the Army rests with Her Majesty; and Your Committee have only call the attention of the military authorities to the subject.

" General Examination of Candidates for Commission.

" The examination of candidates for general commissions, either with or without purchase, takes place at Sandhurst, and is made by the professors there, in the presence of the Lieutenant-governor.

" The examination takes place in writing English from dictation, in history, geography, arithmetic, algebra, fortification, and in one of three languages, at the option of the candi-
1000. date. It is conducted *vivâ voce* where possible, and if the candidate answers the *vivâ voce* questions satisfactorily, he is at once passed. In case there be doubt as to any particular
1600. branch, a number of questions are put to him on paper, of which he is expected to answer a certain proportion.

" The decision on each branch is made separately, and if the candidate does not pass, the papers are forwarded to the Horse Guards, with which rests the ultimate decision. In cases where the Deputy Governor and professors are of opinion that the candidate has had " the education of a gentleman," although he may have failed in some particular branch, their opinion is made known to the Commander-in-Chief by a special mark.

" The Commander-in-Chief, if he still thinks the candidate ought not to receive his commission, gives him a second chance. A second examination takes place after a reasonable delay, and the candidate is examined in the branches in which he before failed.

" The examination is evidently conducted with great indulgence towards the candidate, and Your Committee can hardly suppose that any young man of decent abilities, tolerably educated, would ultimately fail. One branch only of examination is military; Your Committee were informed that the knowledge in fortification required would easily be mastered in a week.

" The

"The subject of the education in the army was not referred to Your Committee, and they do not feel themselves authorized to give any opinion or make any observation on this important matter. Much information is contained in the Evidence, from which it will appear that the attention of the military authorities has been called to the subject. Mr. Sidney Herbert appears to have had under consideration a plan by which officers might obtain some instruction in the higher branches of their profession without being withdrawn from their regimental duties.

"In closing this Report, it is but just to the military staff, and to the professors and masters of Sandhurst, that Your Committee should state that the examination and the evidence have left on their minds a very favourable impression as to the manner in which the duties are performed at the Royal Military College."

Draft Report read 2°, and considered paragraph by paragraph. Several amendments made.

Page 2, paragraph 2, read; amendment proposed, at the end of the paragraph, to add the following words:—

"Your Committee are prepared to submit recommendations that will greatly benefit the officers of the army generally, but at an increased expenditure of public money; therefore, in so doing, they consider it more especially their duty to search for some means of counter-vailing retrenchment. They find that the salary of the Governor is 1,000 *l.* a year, independent of the advantages of a large furnished house, with garden, and 13 acres of land, coals, candles, forage for four horses, and allowances for two servants. The present Governor is also colonel of a regiment of light dragoons.

"Your Committee fully appreciate the benefit of having a distinguished officer at the head of the College, and by no one could that benefit be more fitly conferred than by the present Governor. Your Committee by no means recommend that the salary and emoluments of the present Governor should be changed, but that on the appointment of his successor, while the same emoluments should continue, the salary should be reduced to 500 *l.* a year, whenever the Governor should have a regiment." (Mr. *Rich.*)—Question, "That these words be there added," put and negatived.

Paragraph agreed to.

Page 5, paragraph 4, read. Amendment proposed, after the words "received in action" to insert the words, "or diseases contracted on active service" (Lord *Lovaine*). Question put, "That these words be there inserted." The Committee divided:

Ayes, 5.	Noes, 2.
Colonel Dunne.	Mr. Rich.
Mr. Monckton Milnes.	Viscount Monck.
Lord Lovaine.	
Sir George Tyler.	
Colonel North.	

Another amendment proposed, after the last amendment, to insert the words "in the field" (Mr. *Rich*).—Question put, "That these words be there inserted." Committee divided:—

Ayes, 2.	Noes, 5.
Mr. Rich.	Colonel Dunne.
Viscount Monck.	Mr. Monckton Milnes.
	Lord Lovaine.
	Sir George Tyler.
	Colonel North.

Paragraph, as amended, agreed to.

Page 6, 1st paragraph, read; amendment proposed, after the words "100 *l.*" to insert the words:—

753.

"The entire expense of a cadet upon the present establishment is rated at about 80 *l.* a year; and it is stated that 94 *l.* cleared all the cost of a cadet at that time of the late war when prices were at their highest point. The charge for a cadet of the 3d class now is 125 *l.*, and this, with ordinary incidental charges, amounts to from 140 *l.* to 150 *l.* a year. The College makes a large profit upon this class of cadets. There is paid out of it the whole surplus expense of the establishment,—the staff, the professors, and the excess of cost over charge, not only for the cadets of the first and second classes, but also for the officers studying at the senior department. It appears, therefore, that upon a course of education highly recommended by the most competent authorities, there is imposed a heavy and partial tax, of which tendency is specially to exclude from the advantages of that education, and so far generally from the Army, the sons of professional and other gentlemen whose means do not warrant their paying for the education of one only of their children so large a sum as from 140 *l.* to 150 *l.* a year. This charge, too, is the more grievous since above one-third of it is appropriated, not to the advantage of those who

LIST OF WITNESSES.

Martis, 24° *die Aprilis*, 1855.

Colonel Prosser - - - - - - - - - p. 1

Veneris, 27° *die Aprilis*, 1855.

Edward Houndle, Esq. - - - - - - - - p. 30
Major Addison - - - - - - - - - p. 48

Martis, 1° *die Maii*, 1855.

Lieutenant-Colonel Adams - - - - - - - p. 63
Mr. John Cunliffe - - - - - - - - - p. 89

Veneris, 4° *die Maii*, 1855.

Lieutenant-General Sir John Burgoyne - - - - - p. 92
Rev. H. le M. Chepmell, D.D. - - - - - - - p. 105

Martis, 8° *die Maii*, 1855.

Major-General George Augustus Wetherall - - - - p. 118
Rev. George Edward Cole, M.A. - - - - - - p. 134
Mr. John Godwin - - - - - - - - - p. 140

Martis, 15° *die Maii*, 1855.

General Sir Howard Douglas, Bart., G.C.B. - - - - p. 146

MINUTES OF EVIDENCE.

Martis, 24° *die Aprilis*, 1855.

MEMBERS PRESENT.

Sir George Tyler.	Colonel North.
Sir Francis Baring.	Colonel Dunne.
Colonel Adair.	Lord Lovaine.
Viscount Monck.	Mr. Rich.
Mr. Hardinge.	Mr. Monckton Milnes.

THE RIGHT HON. SIR FRANCIS BARING, IN THE CHAIR.

Colonel *Prosser*, called in; and Examined.

Colonel *Prosser*

24 April 1855.

1. *Chairman.*] WHAT office do you hold in the Sandhurst Royal Military College?—That of Lieutenant-governor.

2. How long have you held that office?—One year.

3. What office did you hold before?—That of major and superintendent of studies, two offices combined in one.

4. How long did you hold that office?—Twelve years.

5. Were you educated at the college?—I was.

6. How long were you there?—I was there two years before I got my commission, and according to the regulation, I was allowed to remain one year after I had obtained my commission: I was there three years altogether.

7. What is the governing authority of the college now; where does the highest authority rest?—With the Commissioners under Her Majesty.

8. Of whom is the commission formed?—Of the Secretary of War *ex officio*, the Commander-in-chief *ex officio*, and there are a number of general officers who have been formerly governors, and the adjutant-general is almost always *ex officio* a member, and the quartermaster-general also, and the deputy adjutant-general.

9. What is the duty of the Commissioners?—All the accounts pass through their hands to the Secretary of War, and they regulate all the internal affairs of the college under the Royal Warrant.

10. What do you mean by the Royal Warrant?—That is the warrant under which the senior department, in 1799, and the junior department, in 1802, were constituted.

11. The Commissioners regulate the college under the Royal Warrant?—Yes.

12. Have they the power of going against the Royal Warrant, or must they go to the Queen in Council before it can be altered?—That is a constitutional question; they have often altered it, but I question their right to do so in my own mind.

13. Have you with you a copy of the Royal Warrant?—Yes.

14. What is the date of it?—1802.

15. Colonel *North.*] Have the Commissioners any power with regard to the final examination?—By the Royal Warrant at least one Commissioner must attend the final examination.

16. Do they take any part in the examination?—Not as to putting questions, but they judge whether the questions are put fairly or not, and whether the cadet is well qualified.

Colonel *Prosser.*

24 April 1855.

17. *Chairman.*] How often do the Commissioners meet?—Only according to circumstances; they have no regular period.

18. Who summons them?—The secretary.

19. Supposing the governor wishes to have the decision of the Commissioners, in what mode would he proceed?—He writes to the adjutant-general, who is his organ of communication with the Commissioners, the adjutant-general mentions it to the Commander-in-chief, and the Board is summoned by the secretary.

20. Does the Board interfere practically in the details of the college, or is it merely in cases of reference?—Generally in cases of reference; but they have the power of interfering without any reference, which power they exercise occasionally.

21. Is there any inspection on the part of the Board; do they come down and inspect the college from time to time?—That is understood to be a visit of inspection at the half-yearly examinations; they look into everything pretty closely then. When the cadets are examined, the examinations last for three days, including the examination of the senior department, and there is at least one Commissioner present during the whole of that time.

22. Sir *G. Tyler.*] Do they ever go down without notice?—No.

23. Colonel *North.*] There is no necessity for their being scientific men, is there?—There is no necessity for it; their constitution, which includes the Secretary of War and Commander-in-chief, is quite independent of science.

24. How can they judge if the questions are fairly put, if they are not scientific men?—I think that men of general knowledge, although they may not be entitled to be called scientific men, and although they may not be known in the paths of science, yet may be very well competent to judge of the questions which are put.

25. Sir *G. Tyler.*] Sir George Browne used to examine cadets, did he not?—Yes, very often; Sir Howard Douglas also.

26. Colonel *Adair.*] What is the nature of the examinations, are they partly *vivâ voce* and partly on paper?—They are all *vivâ voce* examinations before the Commissioners.

27. Is there any record preserved of the questions which are put to the cadets?—The superintendent of studies usually puts the questions, and he could always furnish them three or four days afterwards.

28. Colonel *North.*] Is the present superintendent also the major of the establishment?—Yes; the two offices are blended together, and have been so since 1833.

29. *Chairman.*] What are the duties of the governor?—The governor is the officer of last resort in all cases of difficulty. In any case of insubordination, or anything of that kind, he is referred to immediately. He presides at the Collegiate Board always, which is independent of the Supreme Board.

30. What is the duty of that Board?—It is for regulating the finance, and for passing all the accounts; they meet regularly once a month, and they have the power of suspending the professors.

31. Of whom is that Board composed?—The governor, lieutenant-governor, and major, and one of the captains; we have only two captains, and therefore we generally take one of the captains off duty, which does not interfere with the duty of the other.

32. Does the governor guide the studies at all?—Yes; he visits the studies very often. He is *ex officio* one of the Commissioners.

33. What are the duties of the lieutenant-governor?—He is responsible to the governor for the whole of the discipline and studies of the college. Everything is delegated to him; he attends in his office every day from ten to one; and he attends all the private examinations as well as the public ones, in order to see fair play.

34. Colonel *North.*] Does he award the punishments to the cadets?—Yes; he awards the punishments to the cadets, and keeps the senior department in order.

35. Colonel *Dunne.*] Is not the whole of the discipline of the college under the lieutenant-governor's superintendence?—Yes, he is responsible for it no doubt.

36. Colonel *North.*] What are the punishments inflicted upon the cadets now; there is no corporal punishment, is there?—No; there never was.

37. Is there not a black hole?—No; the black hole was a dark room in former times, where the cadets were confined, as a punishment; that was done away

away with; it was thought a bad thing to shut them up by themselves without anything to do. They are shut up now in as light a room as this, with tasks to do, and as soon as they are done, they are let out. In cases of insubordination they are kept in all night, and always on bread and water for two days; the third day they get meat.

38. Mr. *Hardinge.*] What are the duties of the captains?—The interior management of the companies.

39. *Chairman.*] There is an officer between the lieutenant-governor and the captains, is there not?—Yes, the major.

40. What are his duties?—To inspect the studies and to conduct all the examinations; the private ones in the presence of the lieutenant-governor, and the public ones in the presence of the Governor and the Commissioners.

41. What is the distinction between the private and public examinations?—We have about 18 examinations in each term of those classes going up before the Board of Commissioners, and we examine them in the different stages of progress to see how they are getting on. Many of them break down, and are removed from the class and try again. These are the private examinations.

42. Is it when the Commissioners attend that it is called a public examination?—Yes.

43. Colonel *North.*] The major and superintendent does not interfere with the discipline, but merely with the studies; do the captains report to him, and he to you?—The captains report directly to me, but the major drills the cadets, and he has a great deal to do with the studies; he has four offices, in fact, combined in his own person, which are under the Royal Warrant to be exercised by separate persons. He is major, he is superintendent of studies, he is adjutant and secretary to the Collegiate Board; he keeps a record and minute of the Collegiate Board; all those four are performed by separate persons under the Royal Warrant.

44. You do not think that that could be abolished?—Certainly not, I should say.

45. *Chairman.*] Is he secretary to the Board?—I mentioned that the major was one of the members of the Board, and he always does the duty of the secretary of the Board.

46. Colonel *Dunne.*] The Governor of the college is generally an officer of distinction, who has distinguished himself in the army, is he not?—Invariably, I think they are most eminent men who have been our governors.

47. Are they not generally appointed for their eminence in the army, the rather than on account of any particular duty connected with the college?—Yes.

48. Has it not been the means of rewarding a general officer from the funds of the college?—I am not quite sure that that is the just way to put it. I think that an officer in that position is required, and an officer who has served his country with distinction would have a great deal more weight there than one who had not.

49. Still the reward is from the funds of the college, and not from the ordinary resources of the country?—Part of it; he is paid for duties there in fact.

50. Is there any grant from Parliament for the support of the college?—The officers are paid from other funds than that of the college. The governor gets 1,000 *l.* a year, but he also has his pay as a general officer having a regiment.

51. Colonel *North.*] Is there any Government grant to the college for any purpose whatever?—Not a farthing.

52. Sir George Murray was about the only governor who was educated at the college?—Sir George Murray was educated at the senior department, and Sir George Scovell, the present Governor.

53. *Chairman.*] The Governor does not interfere in the studies practically, does he?—Yes, he does, wherever he thinks anything may be improved; he comes frequently to me, and talks over these matters, and sometimes suggests improvements and orders them to be made.

54. Colonel *Dunne.*] The Governor has a house and a domain, has he not?—He has.

55. Colonel *North.*] It is not a very large quantity of ground, is it?—To the best of my recollection it is 13 acres.

Colonel *Prosser.*

24 April 1855.

56. *Chairman.*] Will you state the duties of the captains?—They are responsible to the lieutenant-governor for all the interior economy.

57. How many companies are there?—Two of ninety is the regulated number now.

58. Colonel *North.*] When did the reduction take place to 90; it used to be 103 to each company, and four companies?—In 1832 they were increased to two companies of 90 each; they were increased to that from the year 1829, when they were reduced to two of 85. In 1829 there were two companies of 85 each, and they were increased in 1832 to two companies of 90 each.

59. What was the cause of the reduction of the four companies?—Of course there were not equal demands in peace, and also there was more clamour for economy, and less demand for educated officers; I should say that was the reason.

60. What room would there be supposing there was an increase; how many cadets could you have?—We could take 270 very well altogether.

61. What has become of the quarters where there were 412?—There never was that number; in fact the greatest number that ever was at the college was 361, and it would interfere very much now with arrangements that are decided improvements; if we had that number ever again we should be obliged to do away with all our present rooms of confinement; there may be from half-a-dozen to a dozen young men to perform impositions in confinement upon the half holidays.

62. Sir *G. Tyler.*] Under whose authority were the cadets reduced?—The Secretary at War, I should think, on the recommendation of the Commissioners.

63. Colonel *North.*] Those rooms might be divided, so as to give more room?—Yes, they might, involving a certain expense.

64. One of the dining rooms is now given up to the models?—Yes; we ought to have a large model room built at the back, which would contain lecture rooms.

65. There would be no reason, then, why you should not have a larger number of cadets than 270?—That model room was the dining hall, not a sleeping apartment.

66. Those rooms that used to be black holes could be done up for those boys to go and do the inquisitions in, could not they?—I should not like to see it, I think the present apartments are so much better in every point of view.

67. Colonel *Adair.*] Is it your opinion that, for the development of the establishments, new buildings would be necessary?—Yes, they are wanted now; we want a lecture room and a good model room; our model room is over crowded, and we use one of the dining halls for that purpose.

68. Colonel *Dunne.*] How many rooms are taken up by senior officers?—Four.

69. Mr. *Rich.*] Are those the rooms that were formerly sleeping rooms for the cadets?—No, they were halls of study when we had a greater number of professors.

70. When the college contained 361 cadets, there was then sleeping accommodation enough for these 361; how is it that there is now not accommodation for more than 270?—Because many of those rooms are applied to other purposes now.

71. The rooms applied for that purpose on the basement are no longer used as such?—They were under ground, and it could have no good influence upon a cadet to shut him up in the dark in that way for 24 hours.

72. Were they quite dark?—Yes, quite dark.

73. *Chairman.*] Will you have the goodness to state to the Committee the regulations under which the students are entered in the junior department?—The regulations for admission are in the little blue books which we publish every year. I have one here.

74. Just read that part which relates to the different classes?—"First class: the sons of all officers in the army under the rank of field officers, including surgeons and paymasters, and the orphans of officers of whatever rank in the army, and of commanders and officers of rank superior thereto of the Royal Navy, who have died in the service and are proved to have left families in pecuniary distress, to pay 40*l.* per annum. Second class: sons of regimental field officers and of captains under three years rank, and commanders of the navy, 50*l.* per annum; sons of colonels and lieutenant-colonels having corps, and of captains

captains of the navy of three years rank, 70*l.* per annum; sons of all flag and general officers, 80*l.* per annum. Third class: the sons of private gentlemen and noblemen, 125*l.* per annum.

75. Colonel *North.*] Can you state when the change took place with regard to the orphans?—The strictly orphan class require even to be supplied with pocket money, and to have their expenses paid on going home for the vacation; the orphan class was omitted for the first time in the estimate for 1825.

76. Was there any cause for that except economy?—No, I think not; but I have heard other causes stated, and I believe it was said at the time that they came very imperfectly prepared, and were only half educated in anything like preparatory knowledge; they hung fire in the lower school for years.

77. They were obliged to undergo the same examination for admittance?—Yes.

78. At what time was that?—It was previous to 1825.

79. In 1819 there was an examination before they entered for all cadets?—Yes. I cannot speak positively.

80. Mr. *Hardinge.*] Did any of those orphan cadets fail in passing final examination?—That I am not prepared to answer exactly.

81. *Chairman.*] Can you state what you estimate to be the real expense of the education of one of those boys?—An orphan, independent of his share of the payment of the professors, not charging him with the expense of the professors and officers, would cost about 55*l.* a year.

82. But including the whole expense, what would you calculate?—About 80*l.* a year.

83. Does that include the capital laid out in the building?—No.

84. It includes the current expenses?—Yes.

85. The governor's salary?—Yes.

86. The whole of those expenses are included?—Yes; 80*l.* would cover it, inclusive of professors; supposing the case of orphans being added now without paying anything, they would cost 55*l.*

87. That is to say, sons of private gentlemen and noblemen who pay now 125*l.*, pay 45*l.* more than what you calculate their actual expense to be?—Yes; we lose 40*l.* a year by each one on the 40*l.* class; at present, the class at 50*l.*, 70*l.*, and 80*l.* is never full.

88. Colonel *North.*] Could you increase the class No. 1, at 40*l.*?—If the expense were not objected to, we could; we should fall below our expenditure immediately.

89. It would be a great boon to the army and navy?—I should think so; suppose we pass a young man through, every military man knows what a hopeless miserable situation it is for a young man made to join a regiment without anything beyond his pay.

90. Is there any reason why an orphan who did not like the army, but chose another profession, of course the Church excepted, could not be educated for that profession at Sandhurst, such as the public departments of the Admiralty, the Ordnance, and the Foreign Office?—I consider it an admirable general education for any profession, except of course the Church, but it would do away with the object of its foundation very much to admit them with that understanding; at present it is understood in the regulations that they are intended for the army.

91. In the case where a boy has lost his father in the service, and it is of course of the greatest importance to assist the mother in the education of the boy, could there be any objection, except upon the score of a little more expense, to the boy being educated as a civil engineer; if a professor of civil engineers were added to the college, could he be educated there so as to get a livelihood afterwards?—I should think so; Captain Moorsom was an instance of that sort.

92. *Chairman.*] Do you consider, both as regards the public and as regards the individuals themselves, that it would be better to give an orphan admission to the college, or to give him the sum of 55*l.* a year for a certain time somewhere else?—Speaking of the orphan without his paying anything, I do think it would be better for him eventually to give him the 55*l.* a year.

93. Looking at it with a view of relieving that class of persons, you think that this is not perhaps the best mode of giving that relief?—I do think so.

94. In consequence of the position they would be in after they entered the service?—Yes; I foresee a considerable difficulty in their entrance.

95. You think there would be great difficulty in the sons of persons in this position having education enough to enter the college?—Yes, that is my impression.

Colonel *Prosser*.

24 April 1855.

96. Mr. *Rich.*] You speak then of almost penniless orphans?—Yes; those are the only persons who ought to be admitted gratis.

97. The regulations, so far as I remember, did not preclude the orphan from admission who had some means independent?—If it were acted strictly up to it ought, because the regulation says expressly, who "have left families in pecuniary distress."

98. Would you take that to mean relative to their position as officers, or as indicating absolute distress?—The pension to the widow of a captain is only 50 *l.* or 60 *l.* a year.

99. Granting that 55 *l.* as a pension to the child to get education elsewhere, you would then preclude all idea of his entering the army?—Yes; I am very much against any young man entering the army without his friends can allow him something beyond his pay; they run into debt, and get into discredit, and everything goes on badly; it is not one young man in 10,000 that can do it.

100. With regard to the charge of 125 *l.* a year, are there any extras?—Yes; that does not include their travelling-money home, nor a deposit of 20 *l.* which is made when the cadet first joins to provide him with clothing for the time he is at college; he has nothing to pay after that for clothing; then he has instruments and books to buy; the Commander-in-chief supplies the commission.

101. That 20 *l.* is absorbed; there is none returned?—No.

102. How long do they stay on the average?—Three years, I should think.

103. That would raise it to about 130 guineas?—Yes, that is under the mark; I should say more nearly 140 guineas, with all the expenses.

104. You take the cost to the college at 80 *l.*?—Yes, but I do not reckon those extras in; if you reckon them you ought to say 100 *l.* to 125 *l.*, that is the sheer charge. We may be said to profit to the amount of 45 *l.* a year, or rather the privileged class profit to that amount by each 125 *l.* cadet.

105. What is the amount of pocket-money allowed to an orphan?—It varies according to the good conduct, and the position in the upper or lower school. An under officer may get as much as 6 *s.* a week; the lowest is 1 *s.* 6 *d.* a week.

106. Of course, when there is an under officer, he does not often arrive at that stage until the last year of his stay at the college?—No.

107. Mr. *Hardinge.*] Is not it very difficult for an officer to live on comfortable terms with his brother officers unless he has about 60 *l.* a year besides his pay?—Yes, giving him every credit for high principle and good management, so many things are absorbed in a regiment by different contributions, and dress, and so forth.

108. How do the orphan cadets afford to mess with their brother officers when they join the regiment?—I am afraid their history is a very miserable one. I am sure it is, indeed.

109. Have you ever known cases of officers of that class getting into debt?—Yes, I have. I have paid their debts before now, and they have repaid me afterwards.

110. *Chairman.*] How many of the different classes are there at the college?—There are 25 on the 40 *l.* class.

111. Colonel *Adair.*] Has it ever come under your observation that officers who have received their commission under the orphan class have returned for instruction to the senior class?—Yes, frequently.

112. That would give them an additional advantage of qualifying them for staff appointment?—Yes, certainly.

113. Colonel *North.*] With regard to these orphans entering the army, supposing prizes were held out to those who conducted themselves well, such as giving them employment in the public offices of the country, would you still be of opinion that it would be better to give them the 55 *l.* and not have them in the college?—No, that is another question; my objection as to their entering a regiment penniless would fall to the ground if they were provided for in that way.

114. A regiment holds out no prospect of a certain livelihood afterwards?—No.

115. Are the friends of the cadets obliged to certify that they will not give them above 1 *l.* in the half year?—No; they are required by the regulations, it almost amounts to a certificate, that they shall not receive more than a guinea in the course of the year; it is mentioned in these regulations; he signs his name

name at the end; he says, "I have read those regulations, and am willing to abide by them." Colonel *Prosser.*

24 April 1855.

116. *Chairman.*] You say that 25 is the number of the 40 *l.* classes; will you go on, and state the other classes?—There are 25 of the 50*l.* class, 25 of the 70*l.* class, and 25 of the 80*l.* class; then the remaining 80 are the sons of private gentlemen and noblemen.

117. Sir *G. Tyler.*] Are you full?—Not at present.

118. *Chairman.*] Are there many applications for the different classes?—There are a great many applications for the 40*l.* class; we have 40 or 50 now, but that is more than we can receive at present. There are three or four vacancies in the 50*l.* class. In the 70*l.* and 80*l.* classes I do not think we have one cadet, they are all vacant; the fact is, that the sons of general officers and admirals generally are beyond the age, when their fathers reach that rank, for admission to the college.

119. Viscount *Monck.*] What number have you actually in the college now?—The number that we actually have is about 170 now. With reference to the number being under the regulated number, Lord Hardinge called for an excess far beyond the usual years last half-year to join the army; he gave 83 commissions to cadets last half-year, and our usual average is less than half that a great deal. The 40*l.* class is more than full; there are a great many registered who cannot be admitted.

120. *Chairman.*] How is the selection made for the different classes?—Merely by application; they are registered in the order of application, and the register has been kept now for 14 years under my own eye, and I can declare that no one has ever been taken out of his fair turn of registration.

121. Is there no preference given in the case of first class to an orphan over anybody else, or with reference to the services of the father; is that considered?—No.

122. That is strictly kept up?—Yes, that is strictly kept up.

123. With regard to the whole of them, that is so?—Yes.

124. Sir *G. Tyler.*] What is the age at which they enter the college?—Not less than 13 nor more than 15.

125. Suppose a boy is near 15, but is not at the top of the list, would he remain in his position, and lose his chance of getting into college?—He would after he was 15; but there is the option offered to those of the 40*l.*, the 50*l.*, the 70*l.*, and the 80*l.* classes, they are allowed to send their sons to the 125*l.* class till a vacancy falls to their turn in the privileged class; and a great many of them do that, to prevent their being beyond 15 years of age.

126. Lord *Lovaine.*] How many are superannuated annually?—Very few indeed; they would be only upon the 40*l.* class: not three a year I should say, to the best of my recollection.

127. Sir *G. Tyler.*] Is there any age at which they must have arrived before they are placed upon the registration?—Yes; they must be 10 years of age before they are registered; that is the best age for registering.

128. Colonel *North.*] Would it be advantageous to increase that age; to make it 14, and keep them to 16?—There are advantages and disadvantages; they are more manageable at an early age. From 17 to 18 is a very difficult age to manage young men, and if you admitted them at 15, you would have to keep them to 19 or 20.

129. I meant, to enter at 14 instead of 13?—I think, upon the whole, probably it would not work so well as at present.

130. Mr. *Rich.*] You said the classes Nos. 3 and 4 were nearly all vacant?—Every one, I believe.

131. How do you keep your numbers up to 180?—We take extras of the 125*l.* class.

132. Viscount *Monck.*] Can you state the number of each class in the college at present?—Twenty-three at 40*l.*, 22 at 50*l.*, none at 70*l.*, 1 at 80*l.*, and 114 at 125*l.* There have been a few more admitted since this paper was made up: it does not represent the privileged classes well, because they are constantly going away now, getting commissions without passing the college examination.

133. Mr. *Rich.*] Practically the third and fourth classes are not taken advantage of?—Certainly not.

134. *Chairman.*] Would the college be self-supporting if the whole of the classes were full, according to your proper establishment?—No.

Colonel *Prosser*.

24 April 1855.

135. It only arises from the circumstance that the 70 *l.* and 80 *l.* classes are not taken advantage of that you can pay?—Yes, from our calling in others of the 125 *l.* class.

136. Mr. *Rich.*] How do you make out it would not pay at an arrangement of 80 *l.* to 50 *l.*; and, taking the third and fourth class as being self-supporting, you say that 80 *l.* would pay your expenses?—There are only three classes, strictly, in the college; there is no fourth class.

137. I take the 70 *l.* and 80 *l.* as paying their way?—Yes.

138. Therefore you lose 30 *l.* a year by the second class, and 40 *l.* by the other?—Yes.

139. Would not the 40 *l.* a year gain upon the 125 *l.*, pay for those two?—Yes, they are the class that pay for the 40 *l.* and 50 *l.* classes.

140. Therefore, if the whole establishment was full, the college ought to be self-supporting?—Yes, it would be now, I presume; the 70 *l.* and 80 *l.* classes would make no difference either way, because they pay their own expenses.

141. *Chairman.*] Will you state what examination a student undergoes upon entering the college?—In English, he must write from dictation; in arithmetic, he must be acquainted with the four first rules, simple and compound, and vulgar and decimal fractions; in algebra, with addition, subtraction, multiplication, and division; in languages, either in Latin to construe a passage from Cæsar's "Commentaries," or in French a passage from Vertot's "Revolutions of Sweden," or in German a passage from Schiller's "Revolt of the Netherlands," at the candidate's own option in each case, with correct parsing. In geography, he must have a knowledge of the counties, chief towns, and rivers of England, Scotland, and Ireland; and he is also required to print the ordinary Roman characters and Italics with neatness and facility; that is to help them in their plan drawing afterwards: there is a great deal of time lost in learning to print.

142. By whom are they examined?—By the professors of the different branches.

143. In whose presence are they examined; in the presence of one of the Commissioners?—The Collegiate Board.

144. Do you find many rejected?—No, not above two or three in the year, and they are allowed another trial.

145. Do they ever fail on the second trial?—Yes, sometimes; very rarely; and sometimes their age prevents their coming up for a second trial.

146. But it is very rare that they cannot pass?—Very rare indeed.

147. Viscount *Monck.*] Is the examination very strict?—No, it is a very reasonable examination, I think; more leaning to indulgence than the contrary.

148. *Chairman.*] Is there any reference to age; do you allow a boy of 13 any more liberty than a boy of 15?—No.

149. Is not it in the case of a boy of 13 rather severe to require him to be well up to vulgar fractions and decimals?—Yes, I think so.

150. Will you state the course of study which a boy pursues from going in to the time he goes out?—His first study is in mathematics; he begins immediately to increase his knowledge of arithmetic and algebra; and as soon as he has gone through the full course of arithmetic and algebra, he is qualified to enter the upper school, but not without passing his examination; as soon as he is in this upper school he commences the study of Euclid.

151. How long is he in the lower before he gets to the upper school?—Some are two years, and some are six months. By algebra I mean quadratic equations at least.

152. That is before they get into the upper school?—Yes; before entering the upper school a certain knowledge of French is required, and of history and geography; they have a certain course of that to pass before they can enter the upper school. As soon as they are in the upper school they go immediately to Euclid, and after they have read the six books they go out with the professors to trace, what are called the ground problems, they actually apply them to practice in the field.

153. Colonel *North.*] Have you Narrien's Euclid?—Yes.

154. Mr. *Hardinge.*] Is there an examination for a boy in the upper school, when he is to be transferred from one class to another?—Yes, there are four classes in the lower school, and there is an examination for each.

155. He cannot go to trigonometry till he has passed in Euclid?—No.

156. Colonel

156. Colonel *North*.] How many boys are there in each class on the average?—Our regulation is 26, but they vary from many circumstances we cannot control; and then the rides are taken out of the morning studies, which makes the number less than 26; the cadets ride out of the two morning studies from 7 till 9 and 10 till 12.

157. At Eton and Harrow the system is for the pupil to be prepared by private tutors, and then he goes to public tutors to say his lessons?—Yes; that is not the case at Sandhurst, they have no private tutors.

158. It is all individual teaching?—Yes, class teaching in the hall of study.

159. Is the number of professors equal to the work?—I think we want one more professor at present; I think we are over worked in the junior classes of history and geography. As it is the chaplain is obliged to take a history class, which I think ought not to be the case.

160. Lord *Lovaine*.] How do you promote from one class to another?—There is a monthly examination for passing from one class to another, and then there are the half yearly examinations for commissions.

161. Colonel *North*.] Do you think the immense amount of knowledge that is required of mathematics is not rather more than is necessary for an officer belonging merely to the army and not to the engineers and artillery?—To the length of trigonometry I think you must feel it is directly of use, but after trigonometry and mensuration it is not so; as soon as a cadet has done the ground problems, he is qualified to begin the surveying and fortification; and at the same time that he begins surveying, to study trigonometry; and the surveying is all done out of doors; it is most carefully done; he must be qualified first by a knowledge of Euclid, and he begins the study of trigonometry at the same time, and he must also acquire a facility in drawing and practical manipulation.

162. *Chairman*.] How long would that take an average boy?—From a year to a year and a half.

163. You consider that a boy is not behindhand if he gets to that point in a year and a half?—No, certainly not; then after that nothing more is required by the course; but then there are many others who have not completed the steps for a commission, and whose time must be occupied in some way or other, and we divide them into French, German, higher mathematics, and fortification (the attack). Then they acquire a good deal that is useful in mechanics, that may be useful at any time; it is one of the very best disciplines of the mind you can employ, and we do not give up all their time to draw. They draw plans in the hall of study, and they do the extra surveys of the ground, and they attend to languages and history.

164. Mr. *Hardinge*.] There are four classes besides the Euclid and trigonometry in the upper school?—No, only two, and those two are Euclid and trigonometry.

165. In the Guide to the Military College at Sandhurst, there are four different classes mentioned?—Those form no part of the course; the course ends with trigonometry for a commission.

166. *Chairman*.] And that course would take a year and a half?—Yes, for an average boy; some are three, and even four years.

167. Colonel *Dunne*.] That is supposing they came in with a certain quantity of information at first?—Not only that; they may have come in very badly prepared, and yet they are boys of energy and capacity, and they get on rapidly, because they work, and they have good moderate capacities; they can do it in two years, with moderate capacity and exertion.

168. Do not you find that a great many boys with no aptitude for mathematics get on well in the general branches?—Yes, they do.

169. Is a certain quantity necessary?—Euclid only.

170. Not beyond Euclid?—No, except a little knowledge of trigonometry.

171. Colonel *Adair*.] Field surveying is essential?—Yes; and I do not know anything more likely to form a staff officer.

172. Colonel *Dunne*.] It is impossible to survey in a field without a certain knowledge of trigonometry?—Impossible.

173. Mr. *Rich*.] You exercise them in the plan drawing in the field as well as at home?—Yes.

174. Military plan drawing?—Yes, but not only in the field; they draw a great

great deal in the halls of study; also on wet days, a drawing class draw in the hall of study.

175. All they do in the hall of study, you subsequently teach them to apply practically in the field?—Yes.

176. Mr. *Hardinge*.] What do you do with a boy who fails in Euclid, supposing he cannot master the first six books in Euclid?—Then he cannot get a commission; he is allowed to remain four years at the college to improve himself in other respects.

177. Mr. *Rich*.] To obtain a commission by purchase or by patronage, it is not requisite to pass the highest examination?—The only examination then is that called the army examination.

178. The college examination is then not required?—No, the college examination is then not required; it is at the college, but it is a different examination.

179. The academic examination applies only to those who obtain commissions by virtue of their college examinations?—Yes, without purchase.

180. Officers going in without purchase receive that independently of the college?—Yes.

181. Colonel *North*.] A cadet who wishes to pass an examination for his commission is allowed to select the branch of study in which he would be examined; mathematics, I suppose, is always one part of it?—He must do surveying; he must qualify in six steps, and three of those are imperative; namely, surveying, permanent and field fortification, and Euclid; he can select the remainder from History, Latin, French, German, and the higher classes of mathematics, and the attack and defence of fortresses.

182. He is not bound to know these?—No, he is not bound to know these; he must pass in six steps, but three of them are imperative; the other three may be selected; he must know something of the other branches; he must be acquainted with the French grammar; if he does not choose to take up French he must go through a certain course of history.

183. *Chairman*.] What history do you examine in?—Universal history; the history of England, and the history of Modern Europe, and ancient history.

184. Military history?—No; Keightley's History of Greece and Rome are our class-books, and for our junior class we have a work written by the chaplain, and for the higher class in history we have a manuscript compiled from Russell's History of Modern Europe.

185. Colonel *Dunne*.] Is it a fact that the examinations in history are generally confined to the memory of dates, and not to the general outlines of history?—No, but you must classify; in history, above all things, it would not do to place James the First after George the First; you must classify, and you cannot do it without dates; but the next thing is to acquaint yourselves with the facts.

186. Are the examinations in the junior departments conducted by merely asking the dates of a single battle, for instance, instead of inquiring into the general outlines of history?—No, not at all, and it does not apply even to the army examinations. Every candidate gets 18 questions, and out of those 18 there are about three dates.

187. Mr. *Rich*.] Do any cadets who obtain their commissions by purchase, or from the Horse Guards, independently of the college, remain at college after having received their commissions?—They have sometimes been allowed to remain to the end of the current term.

188. Is that a half year or a year?—A half year.

189. Do any of those ever go up to the public examinations?—No.

190. Do you know instances of those who have got, or are about to get, their commissions independent of the college, and taking advantage of the college examination to mark their proficiency?—About to get them, I have known many, but more who have actually got them.

191. What proportion would they bear to those who go up for their commissions?—A small proportion, one-twentieth perhaps.

192. How many go up in a year for examination?—About 30.

193. Lord *Lovaine*.] In fact, they choose the army examination in lieu of the college examination?—Those who do not choose to wait for the time, and whose means make them independent of the college, do so.

194. Colonel *Dunne*.] They, in fact, are treated as if they were never at the college?—

college?—Yes, many who are actually at the college come up and pass the army examinations now.

195. Mr. *Rich*.] They undergo a lighter examination?—Just so.

196. Is not that examination infinitely lighter than that exacted by the college?—Yes, much lighter.

197. They are not to be compared together?—No.

198. Colonel *Dunne*.] The examination of the college for a person who has studied there, and tries to get his commission from the college, is more severe than that of a person who gets his commission by purchase or by appointment?—Yes, that is the case.

199. Therefore there is an advantage to the man who gets it without having performed all his studies?—There is that advantage, if it is an advantage.

200. Colonel *Adair*.] You stated that a knowledge of field fortification was indispensable to obtaining a commission in the college?—Yes.

201. How far is that carried?—It is very exact, and very carefully done; they study in the hall all the best systems of fortification, both permanent and field fortification, and they go out on the ground also and trace field works, and execute saps and mines, and they raise profiles and fill them up themselves, and dig ditches; fill up the outlines of the profiles themselves; and every cadet is able to make a gabion and fascine with his own hand.

202. Of course a good deal must depend upon the proficiency of the professors, but are there any standard works?—We have a class book; the officers who drew up that book studied under the Royal Engineers at Chatham, and made themselves masters of all that peculiar course. It is not allowed to be published; it contains a treatise upon perspective also and tactics.

203. It is compiled from the works of various authors, both English and foreign?—It is.

204. Colonel *North*.] Would it not be advantageous if a cadet, before he passed his examination, were attached to Chatham?—I think it would be more useful to the officers of the senior department.

205. What is the proportion of the number of professors at Sandhurst compared with the number at Woolwich?—It is smaller; I do not exactly recollect; the Ordnance Estimates will show that.

206. *Chairman*.] At what age do the cadets enter at Woolwich?—From 14 to 16.

207. Colonel *North*.] Do they pay anything at Woolwich?—Yes; their highest class pays 120*l*.

208. Mr. *Hardinge*.] There is cavalry drill at Woolwich, is there not?—Yes, both at Woolwich and also with us.

209. Colonel *North*.] Are the boys at Sandhurst taught to swim?—No, they are not: we had a swimming master formerly, and I think we ought to have again.

210. Mr. *Rich*.] The boys have boats, have they not?—Yes.

211. Do you ever try the expedient that is adopted at Eton, not to let a boy go into a boat unless he can swim?—No, we do not: it is a very good regulation at Eton, but to do it we must have a swimming master.

212. Colonel *Adair*.] Are any of the rudiments of artillery instruction given?—Yes; they are taught to work a gun.

213. After constructing the fieldwork, they would be taught how to arm it, to mount and dismount a gun?—Yes, and to hoist it up under particular circumstances; up a counterscarp, for instance.

214. And pontooning?—Yes, we have our own set of pontoons.

215. *Chairman*.] Has there been much alteration in the course of study for the junior department?—Very great during my recollection.

216. Will you state what the main alterations have been?—When it was at its lowest state no knowledge was required, except a knowledge of the six books of Euclid.

217. Was that sufficient for obtaining a commission?—Yes.

218. How long ago was that?—That was in 1812.

219. Mr. *Rich*.] Were not languages and plain drawing also required then?—They were taught, but there was no test of proficiency; there was no examination in them; you might go up for your commission without knowing anything of them. The only examination that I remember at that time was in mathematics, in Euclid, and in history. I rather think I made a mistake in stating

Colonel *Prosser.*

24 April 1855.

stating the number in each class. I stated the first class at 25; but the second class has three subdivisions, and those are 50 altogether, and that leaves 105 for the third class; I think I stated 80: 25, 50, and 105, are the numbers in the three classes.

220. Colonel *Adair.*] To what point is the infantry instruction of the cadets carried; is it carried beyond the instruction necessary for commanding a company or a battalion?—No, only the infantry instruction.

221. To the extent of the management of a company?—Yes; and they are also taught the light infantry movements.

222. Is any instruction given in the internal economy of a company?—No.

223. Colonel *North.*] They are taught firelock drill; are they not?—Yes.

224. Mr. *Hardinge.*] How is the discipline kept up in the different companies' rooms?—Each room contains five cadets, and there is a head of that room, and a certain number of rooms constitute a wing, and they are under an under officer. There is a responsible under officer over the under officers of companies, and he receives their reports, and is responsible to the captain of the company.

225. Lord *Lovaine.*] Are the non-commissioned officers employed in any way in preserving the interior economy of the companies?—They are employed very much in the discipline. They are called staff sergeants. One of them keeps the accounts of the company, and patrols the bounds. We give them immense bounds; they wander all over the country; those who are well-conducted are allowed to go four miles from the college, and we have patrols that distance; and they attend also all parades.

226. Are you of opinion that men of that class are the proper ones to intrust with such power?—Yes, under a proper superintendence themselves. I recollect formerly they were not always proper persons to be intrusted with that power, but I believe they are all now perfectly trustworthy.

227. Sir *G. Tyler.*] Is there any power vested in the senior cadets?—Only by promotion to under corporals and under officers; they have a military authority, or otherwise they have none.

228. Lord *Lovaine.*] Is there any system of fagging recognised?—No; I think there is nothing of the kind at present.

229. Mr. *M. Milnes.*] Is there anything analogous to the monitorial system?—The under officers and corporals might be so termed.

230. Sir *G. Tyler.*] Those are the cadets themselves?—Yes.

231. Mr. *M. Milnes.*] What power have they?—They can order arrests and guards. The under officers have the power of placing in confinement also, reporting immediately to the captain of the company, who decides whether it is just.

232. Lord *Lovaine.*] Has it ever come to your knowledge that any corporal ill treatment has ever taken place?—Yes. That led to strong laws against fagging, in which it all began. There were many cases of personal ill usage and beating boys. I have heard of similar cases in other institutions.

233. Are you of opinion that there is not the same danger in intrusting one boy with authority over another?—I think there would be very great danger in allowing them to beat them as they do at the great public schools, but none whatever in allowing them to put them in arrest, and inflict punishments of that kind, which we afterwards subject to the deliberate judgment of the captain of the company.

234. Colonel *North.*] You have a great many more subjects of general education taught to the boys, and they are required to pass through them in a much shorter time, as compared with Eton and Harrow?—Yes, we have.

235. You have also a time fixed by which the boy must have got through them, or else he is obliged to leave the college?—Yes.

236. Mr. *Hardinge.*] Did you say that a boy is obliged to pass in French and German?—He may get his commission without passing a public examination either in French or German, but he must have a knowledge of those languages. We must know that he has attained a certain class in French and German both, and that class supposes a certain knowledge of French and German; that is, a knowledge of the grammar.

237. He is not required to speak French fluently, is he?—No; even those who go up before the Board are not required to do that.

238. Viscount *Monck.*] Can they construe?—They can construe.

239. Mr. *Rich*.] How many classes have you?—Five classes.

240. What class must a boy be in to be qualified to go up for his commission?—The under third at least.

241. It is absolutely necessary that he must be in the under third in French?—Yes.

242. What is the case with respect to German?—He should be in the under second; and I should explain that he does not go to German until he has attained a certain proficiency in French; so that the under second in German involves as much knowledge of German as under third does of French.

243. Mr. *Hardinge*.] Is the standard of French high enough?—It would be very hard to enforce a knowledge of French in the case of a boy coming from Eton, for example, who is well prepared in Latin; we let him take that up for his Board examination.

244. Is he required to take up Latin for his final examination?—He is not obliged to do so; he may select it if he pleases.

245. Do many boys take up French for the final examination?—Yes, a great many do; and German also.

246. And they are examined in something more than the mere grammar?—Yes; they translate from French into English, and from English into French, and the master converses with them in French and German.

247. *Chairman*.] Will you state what knowledge is required?—In mathematics, a knowledge of Euclid. In history, a knowledge in English history, European history, Grecian and Roman history. In geography, a fair general knowledge is required; I cannot define that more clearly; and the cadet must be able to work geographical problems on the globes. Latin, if he chooses it, but it is not imperative; he may know nothing, and he may, if he likes, by taking it up as a step, translate Livy and Virgil into English, with parsing and scanning; and he turns English into Latin also in writing. Then in French he must know the grammar; and if he takes it up as a step, he must be able to translate French into English, English into French. The same in German precisely. In fortifications he must be well acquainted with permanent and field fortification, theoretical and practical, including sapping and mining, pontooning and field entrenchments on the ground out of doors: and in surveying he must have done four actual surveys on the ground, besides the amount of drawing requisite in the hall of practical plan drawing. I think that includes all the branches taught at the college.

248. How long are the cadets generally at the college before they go up for their examination?—From two to four and a half years; four years is the limit; but some of them who have maintained good conduct are allowed to remain another half year, if they are close upon getting their commission, in order to get their commissions.

249. Out of those who enter how many get their commissions?—About one-half of those who originally enter.

250. The others either leave without obtaining commissions, or get commissions through private means?—Yes.

251. Colonel *Dunne*.] One half get their commissions by public examination?—Yes; that is, all classes; they all stand equally for their commissions.

252. After a cadet is appointed, is he not sometimes allowed to stay for a half year?—Never now; it was so formerly; that practice has quite ceased.

253. *Chairman*.] Do you find the public school boys behindhand, or do they keep their own?—They keep their own; they are not at all behindhand; the knowledge that they have generally of Latin is of great use to them in learning French and German.

254. How do you find them with regard to mathematics?—I find that they learn mathematics as well as the others.

255. Mr. *Hardinge*.] Do not you find that a boy coming from Eton sometimes knows nothing of mathematics?—We take great pains in our instruction in mathematics, and they can learn it very soon, if they try; he must be a very deficient boy indeed if he cannot learn it.

256. Sir *G. Tyler*.] Has a cadet who passes an examination, any advantage over the others in the list returned to the commission?—Yes; and it was a very great boon in the time of peace; I rather think the Commander-in-chief gave us every one that he had to give without purchase.

257. You place them on the list, according to the manner in which they pass?—Yes;

Colonel *Prosser*.

24 April 1855.

—Yes; the under officers stand at the head of the list by virtue of their office, but after them they stand according to merit.

258. *Chairman.*] They receive their commission according to the manner in which they stand?—Yes, they are gazetted as they stand.

259. Mr. *Rich.*] Have you reason to believe that many also obtain a commission without passing an examination?—Yes, they do; that is, without the college examination.

260. *Chairman.*] Is it disadvantageous to the service that those who leave the college before they have passed the final examination should obtain commissions, either by purchase or in other ways?—I think it is advantageous to the service to have officers as highly educated as you can; the service would lose by the difference in the education that they receive if they pass before the Board or college examination, and the education that they would receive to enable them to pass the army examination.

261. They would be better educated at the college than probably would be necessary under the common examination of an officer?—I think so.

262. Colonel *North.*] Officers for the artillery are obliged to go to Woolwich. If Sandhurst College were extended considerably, do you think it would be advisable that every officer in our army should be obliged to pass Sandhurst?—Yes, I am rather bound to say so; I think so.

263. Colonel *Dunne.*] Or that he should receive a similar education?—Yes, or that he should receive a similar education elsewhere.

264. Lord *Lovaine.*] Supposing a person came to you equally qualified, and capable of passing the same examination as must be passed after having received his education at Sandhurst, you would of course think that he was just as eligible as if he had obtained his education at Sandhurst?—Of course, I think that a man who has received a first-rate classical education, and has been brought up as a gentleman, makes a capital officer in the early ranks; he must improve himself after.

265. Mr. *M. Milnes.*] Can any examination give you the same knowledge of the capacities of a man as you acquire by following these studies during a course of collegiate education at Sandhurst?—I should think that you tested the intellectual qualifications of a man at the universities more highly still. For instance, I believe there is a good deal of original investigation in the public examinations at the universities; we have nothing of that kind. The original investigation which they are required to carry on at Oxford and Cambridge is a higher test of the capacity.

266. Do you mean, that by any examination which you institute for testing the capacities of a man when you know nothing about him before, you can get the same knowledge and assurance of his efficiency that you could have by submitting him to a regular course of military education?—Not for a soldier, certainly; but as to his intellectual powers, there are other means, no doubt.

267. With regard to his intellectual powers, as bearing immediately upon the profession, would you not say that the education of young men in a military college gave you a better test than you could attain by any mere examination?—Yes, I think so, because we watch them through all the classes.

268. Viscount *Monck.*] Do you think it would be desirable, that after a person had passed that preliminary examination for a commission, he should spend a certain portion of his time, before he began regimental duty, at some military university?—It has never occurred to me before, but I should think it would be a great advantage.

269. *Chairman.*] Do you know the practice among the marine cadets?—Their education is very scientific now; they cannot become marine cadets without undergoing an examination far higher than our entrance examination is.

270. They are further advanced in age, are they not?—I should think that they are about the Woolwich age; about 16.

271. Mr. *Hardinge.*] If you made every officer pass through Sandhurst before he could get a commission, would not you exclude many good men, who might hereafter make very good officers?—Undoubtedly you would.

272. Sir *G. Tyler.*] Would not Sandhurst College require to be greatly extended, supposing that were the case?—I do not think we could do it.

273. Colonel *Dunne.*] Was not the institution of an examination for the first commission in the army adopted in consequence of so many officers coming in who really knew nothing about the profession, or even the rudiments necessary

to

to commence their profession?—So it was understood, but I do not think the question was very well understood at the time.

274. *Chairman.*] Do not you conceive that officers are now generally very much better educated men than they were in your first experience of the profession?—Yes.

275. Do you attribute that to the existence of the college or to the general state of education in the country?—To both; the general state of education in the country has advanced enormously since 1815.

276. You mentioned that with regard to history your staff of professors is not sufficient?—Yes; I think we ought to have one more professor.

277. In other respects, is your staff of professors sufficient for the system of education pursued at the college?—Yes, quite; it is another question as regards the military establishment.

278. Supposing you had an additional historical professor, would your staff be sufficient for an increase of the number of cadets in the college?—An increase of 10 orphans has been spoken of in Parliament, and with the addition of one professor we could manage them very well.

279. How many more could you take, with your present staff and the addition of one professor?—I should not like to go beyond the 10. The reduction in 1829 expressly provides for more professors being appointed directly the number exceeded 180.

280. Mr. *Rich.*] You have stated that you thought it advisable that the officers in the army almost universally should pass through a military college?—I meant rather to say that I thought it would be very much for the advantage of those passing the army examinations, if they were obliged to attend a military college for six months or so, to learn sapping and mining, and to assist the engineer in the attack of fortresses and throwing up field works and surveying.

281. Should you attach importance also to an officer, having been accustomed to young men, before he got his commission, acting as the cadets do to a certain degree as privates, and subjecting themselves to drill?—They must be subject to discipline of some kind, It is there I conceive that the lecturing system which it is proposed to establish will break down. I do not see how the discipline is to be maintained unless you could get them under military discipline.

282. You do not attach much importance to their being formed into detachments?—No.

283. Do you think, in the education to form an officer, that the drill and the company duty which the cadet goes through is advantageous to him?—Very much, I think; and it is our means of discipline, otherwise we should have no resource but beating them.

284. Supposing two young men of equal abilities, of whom one went to a private school and another went to Sandhurst, where the same mental instruction was given, and he had the advantage of military associations, you would think that the one sent to Sandhurst would have the better chance of becoming an efficient officer than the other?—I think it is supposing a case which cannot exist. What other establishment but a military college could have a detachment of cavalry to teach the young men riding, or a detachment of sappers and miners to teach them mining and pontooning and gunnery? I think it never could be done, without an incalculable expense, at any other institution.

285. Independently of the intellectual instruction, you attach great importance to the practical professional instruction given at Sandhurst?—Yes, I attach the greatest importance to it.

286. In that point of view, you consider it beneficial to the army that the number of cadets passing through Sandhurst should be increased?—I think so.

287. You would be more likely to get a better corps of officers by such an education?—Yes, I am bound to say so.

288. With regard to cadets getting their commissions without passing the college examination, do you think that if every cadet, before he could obtain a commission, was required to pass through a certain qualified examination at the college, by that means you would improve his education, as well as give a higher tone of attention and study to the college itself?—I do not see how it would benefit the college in any way, but I think it would benefit the army.

289. Do you not think that the fact of a young man attending a military college, with the full knowledge that he should obtain his commission whether he were comparatively idle or not, so as not to offend discipline, would tempt him into a certain degree of negligence hurtful to himself and dangerous by its example

Colonel *Prosser.*

24 April 1855.

example to others, which he would not fall into if he felt himself bound, by the hope of getting a commission, to attend to the studies?—Yes, I think so; I must say so.

290. That condition, then, would aid you in carrying on the discipline of the college?—Yes; a young man whose friends possess large property, and who will purchase a commission for him, does not work as a cadet does who knows that he will have to work his own way through.

291. *Chairman.*] You think it would be an advantage that the appointments to the army should be made in this way; that the men should pass through a certain course of education at a college, and should not be finally appointed until they have passed an examination at the termination of their residence at the college; is that so?—Yes, if it were practicable.

292. You think it would be desirable, that instead of giving the man a commission at once, he should be appointed as the marine cadet is, and after a certain time the appointment should be confirmed or not confirmed?—I think the marine cadets pass examinations at certain intervals until they are qualified for a commission.

293. They pass an examination at first upon entrance, and then the education goes on, and they are confirmed after a certain time, or not confirmed; some are rejected?—Then they do not go to their friends for a certain period between passing their final examination and entering the service.

294. Would you consider that that would be a good system, or have you formed an opinion upon it?—I have not formed an opinion upon it; on the spur of the moment, I should say that it would not work well.

295. Viscount *Monck.*] Why do you think so?—Because they would lose the little they have got in the interval. They leave the college after having acquired a certain amount of knowledge, and go to their friends for an interval before they are appointed.

296. *Chairman.*] You think that they should be appointed as cadets; that they should be at the college six months, and at the termination of that six months, if they passed a proper examination, they should join their regiment?—I think, if it were practicable, on account of the number, that would do very well, but we are passing them now at the rate of about 1,200 a year.

297. Colonel *North.*] Have you any idea what the average number was who passed previously to this war?—About half the number.

298. Mr. *M. Milnes.*] Is it not much more important, now that we are in a state of war, that the young men who join in the army should have some practical military discipline before they do so?—I think so, certainly. I found it act in this way myself, that I apparently forgot it all two or three years after I joined a regiment in the amusement of the regiment, but I found it come in very useful afterwards when I came to think.

299. Will it not make the whole difference in the efficiency of a very young officer whether when he joins his regiment on foreign service he possesses only a theoretical knowledge of military requirements, or whether he has had such practical knowledge which a residence at a military college alone can give him?—Not so much up to the rank of captain; some of the best military officers in the service are those coming from the universities and public schools.

300. Would you say to this extent, that you think the discipline that a man would acquire by an experience of foreign service is nearly equivalent to what he would get by the advantages of a previous military education?—It must be so, because in the case of our staff, which was known to be so excellent at the end of the last war, few of those who composed it were formed at college; they were formed at the actual school of war; but the man combining both, I presume, would be the most useful man.

301. Carrying that principle out, would it not go against the efficiency of a military college at all; if the practical discipline were sufficient, why should there be a military college?—I said that I thought that a combination of the two would form the most efficient man. Practical knowledge may be a substitute for the other; but suppose that at the end of a peace you sent officers to fill the different staff employments, you have to wait until they are formed as the Duke of Wellington had to wait.

302. Do not you think that, supposing this war to continue for some time, it is very important that while we are obliged to supply the present necessities of the war by inexperienced men, we should be training up as large a body as possible of experienced men who may come in in due time?—Yes, because we can

go so far with practical experience before an officer joins an army in the field; so much may be done in the camp now, for instance, and in the great practical schools at Chatham and Woolwich; but for the junior regimental officers, from the captain downwards, I do not think that that high knowledge of the theory of the profession is immediately available.

303. Lord *Lovaine*.] Are the duties of a serjeant and a corporal at Sandhurst in any way analogous, excepting in name, to the actual officers employed in the interior economy of the regiment when in the field?—The under officers and corporals are very analogous. They command divisions at drill, and they exercise just the same sort of interior economy that is exercised in a well-regulated company in a regiment.

304. Do they keep accounts?—No.

305. Do they mount guard?—Yes.

306. Have they escort duties to perform?—No.

307. Have they anything which really constitutes a non-commissioned officer, except the mere command?—They have the mounting guard, the drill, the discipline of those placed under their charge, and general responsibility.

308. Colonel *North*.] And they march the sick to the hospital, do they not?—Yes; and they have the regular arrangement of the interior economy, and a system of responsibility similar to the line.

309. Mr. *M. Milnes*.] Would not a young officer coming upon duty and joining his regiment upon foreign service find himself in a totally different position for some time from a man who had had an ordinary education?—He would have an advantage; they are all obliged to attend drill when they join a regiment, but those who come from Sandhurst are dismissed very rapidly.

310. Would not that advantage be very great in the face of an enemy; would you not enable a superior officer at once to entrust that man with a responsible position?—Yes, I think so; a great many of them become adjutants of regiments, which shows their fitness; you cannot, perhaps, entrust a more responsible situation to a young officer than that of adjutant.

311. How does a young man joining the army, who is totally ignorant of all these matters, learn them?—I believe the general system is to appoint him as supernumerary to a company, and under the guidance of an experienced officer, who soon puts him in the way of all the details if he is inclined to learn.

312. It must be a great encumbrance to an army to have a large body of men undergoing this instruction in the face of an enemy?—Yes, but you must have that under all circumstances; teach what you will at the best military college in the world, take the Polytechnic School in France, for instance, a great deal must be acquired afterwards.

313. Do you not suppose that a young officer coming from a military college, knowing all the routine perfectly by heart, must be in a totally different position from a man who has to learn it all?—He has something to learn under the most favourable circumstances.

314. Colonel *Dunne*.] Does a man coming from the Polytechnic School actually know much more than a man coming from Sandhurst?—No, not so much; at the Polytechnic School they carefully divide the theoretic from the practical instruction.

315. Lord *Lovaine*.] It appeared from what you said, as if you were opposed to the admission of men of fortune into the army on account of their being unwilling to perform the duties necessary?—No; on the contrary, I think it is a very essential part of the constitution of our army, that men of property should get commissions.

316. Is not it true that no education can give the qualities required for an officer?—It can only assist him; but you may suppose the two officers to be equal under other circumstances, and then the educated man must have the advantage; but then you require so much coolness, decision, and physical strength of constitution to go through campaigns; a mere theoretic knowledge will not make an officer.

317. Sir *G. Tyler*.] And those who are professionally educated must have an advantage?—Yes.

318. Lord *Lovaine*.] It is of no use to consider these things as anything but the means by which the men after all must acquire knowledge in the field; they are but steps?—I regard them as a means of facilitating them very much. In the application of that, I may mention that Sir John Jones mentions the apathy of the officers in the line, and the absolute want of assistance on their parts, because

Colonel *Prosser*.

24 April 1855.

they knew nothing about it; but by teaching them the nature of saps, approaches, and so forth, they enter readily into it, and assist the engineers with spirit. Again, General Paisley mentions in the account of the siege of Copenhagen, that there was not an officer nor a private with him who knew anything of the construction of fascines and gabions.

319. Viscount *Monck*.] You stated just now that you thought a combination of general universal education, and a practical acquaintance with the professsion, afforded the best chance of turning out a good regimental officer; does not the cause suggested of allowing a preliminary examination of a young man to pass in general information, derived either from one of the public schools, or a residence at the university, and then a residence at one of our practical schools, afford, in time of peace, the best guarantee for the combined education which you desire?—I think that would work very well to a certain extent; of course you could not give such an amount of theoretical knowledge under those circumstances; and it must always be borne in mind that it is of no use sending a person to acquire practical knowledge until he is grounded in the theory of that knowledge; it is no use, for instance, sending out a young man to survey in the field without any knowledge of trigonometry.

320. You stated that boys of 13 and 14 at Sandhurst were often qualified to go up for their commission in two years; does it not strike you that a young man of 18 is likely to acquire in a year as much information of that kind as a boy of 13 or 14 would acquire in two years?—Certainly.

321. Mr. *Rich*.] Do you see any objection to having two classes of admission in the College of Sandhurst; that is, boys admitted at the age at which they are now admitted, and young men two or three years older, and more advanced, who should be admitted under a more severe examination?—The expense would be a great objection, and there would be a great deal of difficulty as to discipline.

322. In principle, you see no objection to the two modes of admission?—I have not thought much about it.

323. Do you think it would be advisable that the cadets should have lodgings in the professors' houses?—I think that it would be quite inconsistent with military discipline; it would be imitating the plan pursued at Eton and Harrow.

324. Have you contemplated any benefit to be derived by employing the cadets as a body in huts?—Not the cadets; I see the greatest advantage in employing the officers of the senior department in that way; I think it is much better to let the cadets go on in the way that they do now.

325. *Chairman*.] Do you think it would be advantageous to lengthen or shorten the existing course of instruction at Sandhurst?—I do not indeed.

326. You think that it is the proper length?—I do, with a view to the good of the service.

327. Mr. *Hardinge*.] If a boy is idle, and does not pursue his studies with sufficient diligence, you remove him, do you not?—Rarely for idleness alone, unless he is very ill-conducted besides.

328. If he fails in passing from one class to another, he still remains in the college?—There is nominally a probation, which is the first year of residence, and they are required to do a certain amount of work in that year; and if they cannot do that, we have the power of returning them to their friends without any disgrace.

329. Colonel *North*.] Does not the dependence on the subscriptions of individuals for the 125*l*. rather cramp the authorities in dealing with idle boys?—It may to a small extent, but it is a very small extent.

330. Lord *Lovaine*.] How many dismissals have there been, upon the average, within the last three or four years, from misconduct or idleness?—In the last term of last year there were none; in the first term of last year there was one; then there were none for several terms; and then one again.

331. Sir *G. Tyler*.] You stated that you increased the number in 1832, as compared with the number in 1829; was the staff increased at the same time?—The number of cadets was increased by 10 in 1832. No reduction or increase of the staff took place in 1832.

332. In answer to a question which was put to you as to the probationary time of the cadet, you stated that at the end of the year, occasionally, if they were ill-behaved, or became idle, and did not pass the examination required of them, they were discharged?—The case is brought before the Collegiate Board, and we write to their friends, and state that their application to study is not such as to justify the hope that they would continue at the college with advantage

advantage to themselves or the institution; and we beg that they may not return.

333. Is that carried out universally?—No, we are very indulgent.

334. What is the system pursued at Woolwich?—It is the same; but the amount of proficiency in the year is different.

335. Do you suppose that if that rule were rigidly adopted, and those that were idle were not likely, even if they remained there, to gain their commissions, it would be desirable that that rule should be carried into effect without hesitation, so that others may be introduced into the college who may be more useful?—It would make room for more of the class of 40 *l.* a year, some of whom may become superannuated; it would bear hard upon the orphan class, but it would be better for the discipline and instruction of the college, undoubtedly.

336. Lord *Lovaine.*] It is a hard thing to judge a boy from mere idleness for six months?—We tell his friends that he is not likely to make any proficiency at the college, and that he is wasting money and time; it has been really from a feeling of kindness.

337. *Chairman.*] What arrangements are made for manly exercise at the college?—They are divided carefully into companies according to age, and then there are separate grounds for all their sports; they have separate cricket grounds, and they have separate racket courts, and there are a number of men-of-war boats for them; they use those at different hours, and they have different bathing hours.

338. Colonel *North.*] The boats are punts, are not they?—No; they are very good men-of-war's gigs; they came from Portsmouth.

339. Was the swimming master a regular appendage to the college?—He was a tradesman in the village, but he was paid so much a year.

340. Did he die, or was he discontinued?—Discontinued; and the master of sabre exercise was discontinued, and the fencing masters for each company were abolished.

341. *Chairman.*] Were they dropped when the college became self-supporting?—No, before that; the professor of gymnastics was abolished in 1826.

342. There is no composition of any kind required in the examination?—In the Latin examination there is Latin composition.

343. At the final examination for the commission is there anything of that sort required?—At the examination preceding it; not the public one, but one about a week before that; the last private examination there is.

344. Are you in the habit of giving any opportunity for English composition of any kind?—Not much, because we examine them in that when they enter; we sometimes do more than examine them as to spelling correctly. There has been theme writing, and last half year the superintendent of studies took some of them out to study every day for some time, and dictated letter writing to them.

345. Do not you think that might be an advantage in the college?—Yes, I think it is, at intervals with other studies which are considered more special and important; but it would be necessary to have another professor, or if there was an additional professor of history appointed, he might do it.

346. Do you know the system of the French military shools?—I have read the system of the Polytechnic School and St. Cyr; and then they have their practical schools at Metz and Saumur. I think the great distinction really is, that they extend their theory further, and confine it to theory only, and have the practical schools afterwards; at the Polytechnic and at St. Cyr it is entirely theoretic, I believe; but then they go to the practical schools at Metz and Saumur.

347. Colonel *Adair.*] Saumur is the great cavalry school?—Yes.

348. Mr. *Hardinge.*] And Metz is the artillery school?—Yes, artillery and engineer.

349. *Chairman.*] Has every student who has been at the Polytechnic obliged to attend one of the practical schools afterwards?—Yes; they select their best men for the artillery, engineers, and staff.

350. It includes those intended for the artillery, as well as the line?—Yes, and for many of the civil departments, such as the Roads and Bridges, and Woods and Forests.

351. They are selected there according to what they are supposed to be fit for afterwards, are they not?—Yes.

352. The selection is made at the college itself?—Yes.

353. Comparing the two modes of instruction, is there any part of the French system that you think might be introduced into Sandhurst with advantage?—I do not think generally it is applicable even to our political constitution, possibly.

Colonel *Prosser*.

24 April 1855.

If a cadet does not behave himself to satisfaction there, they march him off as a private to a regiment of the line. Here we only send him back to his friends privately, unless there is something very disgraceful.

354. The discipline is sharper there?—Beyond all consideration.

355. Do they carry their instruction farther than is done at Sandhurst, or not so far?—Farther.

356. It is much more scientific?—Yes.

357. Colonel *Dunne*.] In what points is it carried further; is it in the mathematics, in the junior department?—Yes, certainly.

358. They go into the theory of projectiles, do they not?—Yes, and descriptive geometry, which we do not attempt.

359. Sir *G. Tyler*.] Do not they remain in those schools much longer than they do at Sandhurst?—About the same time, I think; but they know it is the only outlet for them, and they get a great deal more out of them in the time, I have no doubt, than we do.

360. *Chairman*.] Do they enter at about the same age?—No, I think they are 16 when they enter the Polytechnic.

361. Colonel *Adair*.] Are you aware of the constitution of the Ecole Spéciale d'Etat Major?—Yes, but that is applying what they have previously learned at the Polytechnic and St. Cyr; they are selected from them.

362. Are the students of the Ecole Spéciale d'Etat Major selected from commissioned officers or the cadets of the different military schools?—From the cadets of the different military schools exclusively, I imagine.

363. And having been appointed to the Ecole Spéciale d'Etat Major, they remain there during their period of service?—Yes, except they must join a regiment of the line, and a regiment of cavalry, and engineers, and the artillery, for practical instruction.

364. In some respects, then, this school corresponds with the school at Sandhurst?—Yes, very much.

365. Might it not be advisable to introduce into the British service a staff instruction for a special staff corps?—Yes, I think so; I think that would work very well.

366. Viscount *Monck*.] Does every officer in France pass through a practical school?—Yes; St. Cyr is one for the infantry. They must, except they rise from the ranks. They pick out the best of their students for the artillery and engineers.

367. Have they any practical school before they come to regimental duty?—I think not.

368. Lord *Lovaine*.] Is it not the case that a man going into the French army elects one of those schools previous to going into the ranks as a private?—I am not aware; but many do get commissions, in the situation of private in the line, without passing through the military schools.

369. Mr. *Hardinge*.] Is not, in fact, the course of study pursued at the Ecole Spéciale d'Etat Major like the senior department of Sandhurst?—I think so; I have heard so. We had the start as to time; the senior department in England was established in 1799, and the Ecole Spéciale d'Etat Major in France was established subsequently, in 1804.

370. The officers in the line are allowed to fill up the vacancies in the Ecole d'Etat Major?—I think so.

371. Colonel *Adair*.] In regard to the cavalry instruction, is anything taught beyond the riding school drill?—They are taken out of the riding school, they ride in sections and so forth; they practise the cavalry drill out of the riding school also, at Sandhurst.

372. *Chairman*.] Is there any part of the staff establishment which is specially confined to the senior department?—There are two professors only.

373. Which are they?—The senior professor of mathematics, and by successive reductions he is obliged to teach fortification and gunnery, and tactics and castremetation. There were seven professors formerly for teaching those and other things.

374. There are now two?—Yes; one professor teaches military surveying only, the other teaches all those branches which I have mentioned.

375. How many are there upon the establishment of the senior department?—Fifteen, but latterly we have had great difficulty in keeping that number up.

376. That is not the largest number that has been upon the establishment, some time before it was 30?—By the Royal Warrant it was; it was 30 for some time after 1802.

377. How

377. How long ago was it reduced to 15?—In 1820.

378. At the time when it was reduced to 15, was it that there were not candidates enough to be admitted, or was it on the score of economy?—It was more on account of economy and the small number of troops in England. The rule is not to allow an officer belonging to a regiment on foreign service to come to Sandhurst, and it is well known how few regiments there were at home in time of peace.

379. To what do you attribute the circumstance that your number of 15 has not been filled up?—To the war chiefly, I think.

380. How was it before the war?—We kept up our full number up to the time of the war, but since the war broke out many officers who were allowed to study from their regiments being in England, and whose regiments were hurried off to the Crimea, were obliged to accompany them.

381. How are those gentlemen officers selected for study?—Merely by application; they apply to the Governor, accompanied by certain testimonials from their commanding officer, that they are acquainted with their regimental duties and are of good conduct; and they must have served four years with the regiment at home, or they must have served three years abroad.

382. Is there any examination that they have to go through before they are admitted?—Yes, there is an examination on admission which they are obliged to go through.

383. Will you have the goodness just to state what it is?—"Simple and compound proportion, fractions, and the use of logarithms, with algebra up to quadratic equations. In languages he must have a knowledge of Latin, or French or German." In both departments we give the Latin its value in any examinations; I think it is consistent with our national system; and "he must be prepared to answer such simple questions as may be proposed to him in history and geography. In fortification he will be required to trace the magistral line of a front of fortification, according to the system of Vauban, the profile of a field parapet, and show that he has received instruction in the use of mathematical drawing instruments."

384. Colonel *Dunne*.] The examination is a very easy one?—Yes; but then there is a good deal afterwards; at the end of the half year they must go through the first books of Euclid; in permanent fortification, the drawing of the plans, and study of the construction and principles of the three systems of Vauban, and the pen and brush examples of military drawing, and also draw the plan of position; and the second half year they are required to do the remainder of Euclid, practical geometry on the ground, trigonometry and mensuration; course of permanent, and first half of field, fortification (including the drawings, study, and tracing on the ground of ten plates of the latter), and the sketch under the professor. That is the sketch of the ground in surveying. In the third half-year he must do "algebra and spherical trigonometry, the last half of field fortification, and the private, squad, and trial sketch." These are surveying sketches. And the fourth half-year he must do "conic sections and practical astronomy; the attack and defence of fortresses, and the final sketch." They are sent to a distance to make a sketch of 15 square miles of a country.

385. *Chairman*.] You say in each half year there is a particular course of study for them; is there an examination at each half year?—Yes.

386. They are obliged to show that they have completed that course for the half year?—Yes; if not, they are liable to be sent back to their regiments.

387. You say "liable," but is it the practice to send them back?—No, I never recollect a single case; but I never recollect a case of their not being tolerably qualified in the six months' work. It is in the last six months' work they generally break down; the early part they get through very fairly.

388. What is the certificate; is it at the termination of the whole course of study?—Yes.

389. Is there an examination for the certificate?—Yes; a public as well as private examination.

390. The private one is before the Collegiate Board?—Yes; and the public one is before the Commissioners, who come down for the purpose.

391. What certificates are given; is a certificate given that they have gone through the course, or is there any difference in the form of the certificate?—The certificate states that they have passed the course of study prescribed by the regulations, and acquitted themselves to the satisfaction of the Board, and are therefore

Colonel *Prosser*.
24 April 1855.

therefore recommended to the favourable notice of the Commander-in-chief. Then some of them, who do more than is required, have a special addition, stating, that having besides extended their course into so and so, the Board record the same upon their certificate; something to that effect.

392. There are only two classes, those who pass and those who get this honorary addition?—There are three classes; there is a still higher one, in which they have extended their studies into the very highest departments of science, and that is recorded on the certificate. That is called the highest certificate.

393. What is the time which they are allowed to remain there?—Two years for those who have never been at the junior department, a year and a half for those who have been at the junior department.

394. Supposing they should obtain any good certificate out of the common order, are they allowed to remain longer?—No, they exclude others; and I believe it has been in evidence before The House that a regiment on the average was not more than four years at home, and therefore an officer must make the most of his time.

395. The object of the rule is, to prevent officers remaining at home instead of joining their regiments abroad?—Yes; besides that, there is the men's own feeling. It is universal that every officer, when his regiment is ordered to the Crimea, says, "I must go."

396. But in a time of peace?—There they might use it as a means of evading foreign service.

397. Mr. *Hardinge*.] Have not there been some regulations to meet such cases?—There is that regulation which exists at the Horse Guards not to allow them to come if their regiment is on foreign service.

398. Colonel *Adair*.] An officer's principal inducement must be a love of the profession to attach himself to the senior department?—I think so; there is no extrinsic inducement; great numbers have got staff appointments indirectly by it.

399. *Chairman*.] How many officers studying at the senior departments have received certificates during the last 10 years?—Sixty-six have obtained certificates; I think two in three get their certificates.

400. The certificate is a certificate of a certain course of study; but does it follow from the certificate that they are fit for duty upon the staff?—No; I think nothing but actual practice in the field would bring out the real staff officer; he must have strength of constitution, and cool courage, decision, and energy; nothing but actual service, I imagine, would bring them out; he must be a good horseman, too, to make a good staff officer.

401. Has the course of study been much changed with regard to the senior department?—No, except by the addition of practical work; that is a great improvement in any institution. Surveying in the field, and field fortification on the ground, and the ground problems, and the sapping and gabion making, and fascine making, and pontooning.

402. Do you consider that improvement might be made in their course of study now?—Yes; to make them attend the practical school at Chatham, and work as staff officers in the camp; there you would bring out a great deal of the capacity for staff employment.

403. Did they attend the camp last year?—Not as a regular arrangement.

404. Has any arrangement been made with reference to this year?—No, not yet.

405. Do you consider that the present position of the locality is advantageous for the senior department, or is there any other that you think would be better?—I think Farnham would be better now it is very near the camp; they are merely a class now with the junior department; it is not in its proper position, I think.

406. What objection is there to their being in the college?—We have only two professors in consequence at the college, and we actually put them into the professors' houses.

407. Do you consider that the present establishment of professors is sufficient?—No, by no means. Mr. Narrien, the gentleman who teaches so many things, is a wonderful man; he is a man of ten thousand; I do not think we shall ever get a man again who can teach as he does.

408. What staff do you consider, putting the establishment at 15, would be sufficient?—I think they ought to have their own commandant, for one thing, who would go out mounted and instruct them, and they ought to have an adjutant of their own; they had a great deal more at first. They have no professor;

fessor; they ought to have a professor of fortifications; and languages should be separate. They have had a professor of languages, but they have none now.

409. With officers, they may learn languages anywhere; is there any particular reason why they should learn languages at the college?—I should think it very desirable that they should have the means of learning languages at the college. An officer in New Zealand, or in India, or at the Cape, has very little chance of learning French or German.

410. Viscount *Monck*.] Did not you state that there was a regulation at the Horse Guards, that if regiments were quartered abroad they cannot be admitted to the senior department?—Yes.

411. *Chairman*.] You think with regard to languages, the college ought to have their own professor of languages, and a professor of fortification?—Yes; the senior department have a professor of surveying at present, and one professor of mathematics would be sufficient. By the Royal Warrant they had a professor of Oriental languages. I think they ought to give an officer an opportunity of learning the Oriental languages, and also French and German.

412. Colonel *Adair*.] Was there not permission given for officers belonging to regiments in India to remain a year longer than their furlough for the purpose of studying at Sandhurst?—Something of that kind may have been done. Officers that had come home on leave, for instance, and spent a year of the time that they had at the college, were allowed to stay the remaining 12 months.

413. Colonel *North*.] Are they admitted to the college at any age?—Yes, any age over 21.

414. Lord *Lovaine*.] Do you think a system that entirely excluded from the staff men who had every other qualification but high literary attainments, would be a good one?—No, certainly not.

415. Do you think it would be a very great advantage if we followed the foreign practice, as regards the higher departments of the staff, in obliging every officer to serve a certain time in every branch of the service?—Yes; or by making him go to Chatham or Woolwich for a certain time; but I think the two years that an officer is attached to each branch of the French service is beyond what is requisite; I think six months would do very well.

416. But you think that he should be attached in the field?—Yes.

417. Colonel *North*.] Is there any special grant from the Government for the senior department?—It is all included in the general estimate; it is covered by the 30 *l*. a year that they pay.

418. Is that sufficient to pay the professors?—No; that is paid out of the junior department.

419. Are the expenses of repairing the college paid by the Woods and Forests?—Within the last two years they have paid a proportion, and we pay a proportion.

420. Colonel *Dunne*.] An officer must be in the army four years before he can be in the senior department?—Yes, or three years abroad.

421. The officers are selected entirely from the home service?—They must be, unavoidably.

422. Has not the course of study been extremely increased latterly in the mathematical branches, and rather decreased in the professional branches of instruction?—Yes, we increased the mathematical branches very much about 10 years ago; it was from the general outcry at that time that the course was so much inferior to that at the universities.

423. Does not a person who takes the higher class certificate almost go into the abstruse branches of mathematics, as they do in the universities?—Yes, but there is no original investigation; when a man is examined for his degree in the universities, I believe he is given a question that he has never seen before to investigate. At Sandhurst we give only questions from books.

424. The examination goes into the binomial and differential calculus, conic sections, and astronomy, to a considerable extent; not only theoretic astronomy, but, to a certain degree, practical astronomy; but in the earlier stages of the military colleges were there not lectures on position and staff duties, which are totally and entirely neglected now?—The books with reference to that are in the college library, and the officers read them sometimes, and Mr. Narrien lectures sometimes on those matters.

425. The staff duties are not carried to that extent which you think desirable?—No. We have improved it in some respects in the last three or four years, by requiring detailed accounts to accompany their sketches, of the modes of defending a position,

Colonel *Prosser*.

24 April 1855.

a position, and other things, and reports of the population in the district, and the resources of the district, in provisions and means of transport.

426. Are not all those the duties which an officer would be required to perform in the field?—Yes, surely, as a staff officer.

427. Do you think those are carried on to a much greater extent in any of the French colleges?—I am not sure what may be done at the Ecole Spéciale d'Etat Major.

428. I understood you to say that the senior department in England was established in 1799, and the Ecole Spéciale d'Etat Major by the French army was a subsequent establishment?—Yes.

429. The studies were supposed to be modelled upon those of England?—I have heard so. I do not know whether it is the case.

430. Have not the whole of the officers in the French army come from that school?—I think so; I think they must do now; but many of the best formerly were from the Polytechnic School.

431. Must not the Etat Major be a special corps?—I am not sure that it is the case with regard to all the existing staff officers of the French army, but it is with respect to the modern ones.

432. Are you aware that during the last 20 years there have only been 20 officers employed who have come from Sandhurst on our staff?—I believe that is in the return that we have given in.

433. Do you believe, in fact, that the apathy of the British officers to make themselves acquainted with staff duties is owing to the knowledge that it is of no earthly use to them, in being employed upon service afterwards?—I do not think that is quite the case. There are very few men who have passed good examinations at Sandhurst who have not come forward sooner or later, and by showing that they were valuable men, obtained staff employment.

434. Is not the whole amount 20 men in 20 years?—Yes; but that was during a time of peace; you had old staff officers formed in the late war, occupying the staff.

435. Do you not consider that our army is far inferior to the French in the knowledge of staff duties?—I am not sure that I am competent to give an opinion upon that subject.

436. Is there any book upon staff duties in the English language, except a little thing upon the quartermaster-general's department?—Lord Frederick Fitzclarence wrote books upon that subject, and there are two or three works upon tactics written by civilians.

437. Is there any work recognised in the British army as a book on the Etat Major?—No.

438. Any officer wishing to study, must study in German or French?—Yes; we have very good works on surveying, and I consider that a very essential part of his education; and we have two or three works on tactics.

439. Are there any works recognised by the Horse Guards?—We have no work upon tactics recognised by the Horse Guards, that I remember.

440. What is the distinction between the duties of the assistant adjutant and the assistant quartermaster-general, as defined in any book of regulations belonging to the British service?—I am not aware of that; it is defined in this way, with respect to the correspondence upon particular subjects, it passes through each.

441. But it is very indefinite?—Yes, it is rather so.

442. Lord *Lovaine*.] Is it not the case in the Indian service that the staff is very well conducted, and bears a high reputation?—I have never been in the East Indies, but they must have a well-conducted staff; they have always great experience in the field going on; I am not disposed to set them up so much above our European staff as has been stated by some of the public papers.

443. Colonel *Dunne*.] Would the mode of warfare which prevails in India be applicable to Europe?—The movement of large bodies of troops must be very similar both in England and India. I suppose the Duke of Wellington found his knowledge of movements in India of great use to him afterwards in Spain.

444. Would you think it advisable to have a separate corps for the Etat Major in so small an army as that of England?—If you have it special and independent of the army, the officers will say, "You keep all the good situations for those men, to our exclusion;" yet, on the other hand, when you send the officers for two years to the senior department at Sandhurst, their comrades are grumbling all the time at having to do the duty, and so is the commanding officer of the regiment also.

445. Would

445. Would you not conceive that a middle course would be better for the British army; that no officer should be appointed to a staff situation who could not pass an examination showing him to be capable of holding a Staff appointment?—Yes; combined with practical instruction, I would recommend his being attached to a camp for a certain time.

446. There are many qualities which a staff officer requires, which can never be taught at any college?—Yes.

447. Is there not theoretic information which can never be acquired by practical working in the field?—Yes.

448. Mr. *Hardinge.*] Could he not be examined before getting his staff appointment, without going through the course of the senior department?—He might be examined by the Board.

449. Colonel *Dunne.*] It would be a matter of indifference where the officer acquired the information?—Yes. But I do not know where you will find a detachment of cavalry and a detachment of sappers and miners ready to teach them all that they are taught at Sandhurst.

450. When you were a subaltern, was not it the habit in any cavalry regiment to send the subalterns out with a parcel of men, and make a reconnoissance, and bring their reports to the commanding officer?—Yes, I believe that has been done since I left the cavalry.

451. Colonel *North.*] Who conducts the examination at the senior department?—Mr. Narrien.

452. Would it not be advantageous if the professors from Woolwich were to come to examine the cadets at Sandhurst, and the Sandhurst professors were to go to Woolwich?—Yes, it might work very well.

453. Mr. *Hardinge.*] Although only 20 officers have been appointed to the staff, have not as many as eight or nine been appointed to the staff in the Crimea, some three or four of whom had obtained first-class certificates?—There were a great many appointed; I believe Lord Hardinge would have appointed as many as the Governor recommended. A year ago he sent him down a *carte blanche*, and the Governor gave in the names of all he considered fit for it.

454. As many as were recommended were brought forward?—Yes.

455. Mr. *Rich.*] Of the staff in the Crimea, how many have been at the senior department?—I do not remember at this moment.

455. Mr. *Hardinge.*] An officer may go to the senior department and enter into a regiment, and not being a good horseman he may be quite unfit to be on the staff on active service?—Yes, quite so; and he may break down in constitution too. That a little work of the camp would enable him comparatively to discover; and he may also break down in coolness in action.

457. Mr. *Rich.*] As a general rule, the preliminary education they receive you look upon almost as a *sine quâ non* to constitute a good staff officer?—I think so.

458. It does not necessarily include all the qualifications, but you think that the education is a necessary preliminary to form a staff officer?—Yes.

459. Mr. *Hardinge.*] A man may be a very good aide-de-camp without having gone through a scientific course of study?—That has usually been excepted from a staff appointment; but I cannot but think that the officer would make a better aide-de-camp if he passed through the senior department; it makes the men think and acquire habits of thought and reflection; their minds become developed.

460. Mr. *Rich.*] Do you not think that placing a man on a less important staff appointment at first would be a good means of testing his fitness for a higher appointment?—Certainly; it gives you the means of finding out his fitness.

461. You first give him an education at Sandhurst, and put him then on an unimportant appointment, and thereby test his qualities?—Yes; you have, perhaps, a better test in making him work at the camp and Woolwich and Chatham.

462. You would not recommend placing an officer who had distinguished himself at the senior department in a higher staff appointment until you had tested his other qualifications in the less important ones?—I would rather say appointing him as a supernumerary at first.

463. Do you attach importance to making use of the less important staff appointments as a means of testing and instructing them in their duties as staff officers in the field?—Rather to appointing them as supernumeraries.

464. Would you pass them on then to a superior department?—Yes, according to the capacity they had shown. The superintendent of studies gives them questions, but they are all taken at random out of a book.

Colonel *Prosser*.

24 April 1855.

465. You recommend horsemanship to be taught?—Yes.

466. You mentioned Farnham as a desirable site, do you not consider that Woolwich would be a more appropriate position for learning the theoretic part of their duty than Sandhurst?—I would make them go there too; but I think you would be able almost with certainty to select your good staff men by having them at Farnham and making them share in the duties every day in the field.

467. For having access to scientific professors would not Woolwich afford greater facilities than either Farnham or Sandhurst?—No. I consider that our professors are as scientific as those at Woolwich, and they could have their professors of any degree of science you pleased.

468. That might add to the cost of the institution?—Yes; but you could have the senior department magnificently conducted for under 10,000*l.* a year, and that is not a consideration I think.

469. Do you find that many of the officers coming to study at the senior department within the last 10 years have been married?—A great many; not the majority.

470. Has a suspicion prevailed that they were glad to come and pass their time quietly in your college in consequence of that?—I think it is very probable.

471. Mr. *Hardinge*.] Could the accommodation at the senior department be conveniently enlarged?—Not at Sandhurst; they occupy the professors' houses now.

472. Do you think 15 too limited a number?—It is sufficient in peace time, I think; unless you were to sweep out all the existing staff at once and immediately begin supplying them from Sandhurst.

473. You are rather in favour of having a separate senior department elsewhere?—Yes, they were removed from High Wycombe to Farnham in 1812, and from Farnham to Sandhurst in 1820; and at each move there was a reduction, and it is one man, I may say, Mr. Narrien, who keeps up the whole of the instruction of that department, and no one man is sufficient for it.

474. Should you think it desirable that an officer before he is appointed to the staff should be acquainted with cavalry as well as infantry?—I think so, certainly.

475. Would it be desirable to attach such an officer to a cavalry regiment for a certain period?—Yes, I think upon the whole, it would be desirable; he could not learn with us cavalry movements, even the movements of a regiment in the field.

476. Colonel *Dunne*.] Does he learn the use of his sword?—Yes, they are taught the sword exercise.

477. Lord *Lovaine*.] Would you in common with most of those acquainted with the service entirely put on one side all the personal staff of the generals?—I substituted the placing them as supernumeraries without any staff appointment, and then I would put them to staff appointments such as they were fit for afterwards.

478. Colonel *Dunne*.] The junior staff appointment probably would be called an aide-de-camp?—Yes.

479. Is not his duty on the field of battle very essential, for if he does not understand the movement of troops he cannot understand the orders of the general which are given to him, which may cause a great destruction of men, as was the case at the battle of Minden under Lord George Sackville?—Yes.

480. Mr. *Rich*.] Although called an unimportant staff appointment, still the appointments themselves are relatively important, and should be given only to officers of experience?—Yes; whether he were educated at Sandhurst or not, he should be a supernumerary for some time, to begin with.

481. Colonel *Adair*.] What is the state of the library and apparatus of instruction at Sandhurst?—We have a good library of general literature and history and classics, as well as on special military subjects; 5,000 or 6,000 volumes, I think it is; and then there is a separate library for each company besides; the cadets seldom go into the high scientific books.

482. How has the principal library been formed?—By a subscription from every officer who joins the senior department, and every cadet who joins the junior department; they each contribute a guinea on first joining.

483. How is the astronomical apparatus paid for?—That is estimated for under the general head of "Instruments and Contingencies;" and where it is wanting we repair it or renew it.

484. Is there any chemical laboratory?—No.

485. *Chairman*.] Have you any chemical lectures?—There have been, but not for many years. I should wish very much to have such men as Professor Faraday down, if we had a good room.

Colonel *Prosser*.

24 April 1855.

486. The examination for direct commissions takes place at the college; by whom is it conducted?—I am in charge of that; I preside at the examination, and have four examiners under me, who examine in the different branches.

487. What is the examination?—There is an examination in history, geography, in arithmetic, algebra, one of three languages, Latin or French or German, and fortification, and writing English from dictation; they write their examinations; and those that fail especially are required to give in their answers in writing, and those answers are sent up to the authorities at the Horse Guards, so that the friends of a candidate can see the cause of failure; and I assure you that they are very sad failures in general. The work that we send up to the Horse Guards is very bad indeed.

488. Is it a *vivâ voce* examination?—Where it can be; it is not in arithmetic, and algebra, nor in fortification. It is in history, in the first place; and then, if they break down, they are given written papers; so that they have two examinations, in fact. We have an oral one first, and then, if they fail, they are allowed another by the Commander-in-chief; so that a man may be said to have four examinations before he is finally condemned.

489. What is your historical examination?—It was necessary to have a rule, and we were always between two difficulties. There was a party always who cried out, "Oh, it is too easy, and it is nothing but a farce;" but the great pressure at the Horse Guards was from the friends of those who said it was too severe. In consequence of that, it was brought to this, that they get about 18 questions in history, and if they can answer 12 they pass.

490. In what history is the examination?—They get three or four questions in Grecian history, three or four in Roman, and perhaps you get in French and English history five or six, and in general history two or three at the end; but we do not attach much importance to those; that is, they are not required by the scale; but we rather put it to them to get some little knowledge out of them as part of the education of a gentleman.

491. Are the answers to the dates *sine quâ nons*?—It would only be reckoned for three out of the 18 questions, and if he answered 12, he would still pass, independently of those dates.

492. Do you think a boy of 15, who had been properly educated, ought to answer those questions?—Most certainly I do.

493. Colonel *Dunne*.] In fact, you require no more than a gentleman of education should have at such an age?—I think it is a very fair test of a gentleman of 15.

494. What is your examination in geography?—They are given about the same number of questions as in history, orally or written, and the same proportion constitutes a failure; that is, if they cannot answer two thirds. Her Majesty's dominions, I think, were the original programme that we got from the Horse Guards, the modern geography of Her Majesty's dominions in every part of the world; and we confine our examination very much to that, and to the capitals and chief rivers in other countries.

495. To what extent do you go in arithmetic?—The four first rules, and fractions, and logarithms.

496. Colonel *Dunne*.] Do you require logarithms absolutely?—They are required to state orally how they would perform the process by logarithms, of multiplication by addition, and of division by subtraction.

497. You do not require the theory of the formation of logarithms?—No, not at all, for the army examinations. The cadets must do it.

498. *Chairman*.] Would a boy who had never seen a logarithm in his life be prevented being passed by that?—No.

499. It is not absolutely necessary that he should answer even those questions?—No.

500. How far do you go in algebra?—Merely the four first rules and simple equations.

501. Supposing a young man brought up French, what quantity do you require?—That is rather a strict examination; he is required not only to translate from a French work into English, but from an English work into French, which is a severe test of a language. In Latin he is only required to translate from Latin into English, and to parse and scan.

502. Would a boy pass that examination without difficulty?—Yes; I think the Latin examination, generally speaking, he would.

503. What is the examination in fortification?—There is very little required; they

Colonel *Prosser.*

24 April 1855.

they draw the outline of a front of fortification according to Vauban's first system, and they draw a profile of a rampart and parapet according to the same system.

504. In what time do you suppose a boy of common sense would get up that part; the fortification only?—In a week, I should think, he would do it.

505. What is the dictation?—Then they write English from dictation.

506. Is there any one of those that is absolutely necessary to pass; suppose a boy knew nothing of fortification, though he is examined, would he be rejected if he knew nothing of fortifications?—The question then would rest with the Commander-in-chief. If he had only shown himself weak in fortification, we should state in our report that he was weak in fortification, but that he appeared notwithstanding to have had the education of a gentleman; but in the case of entire failure, we should report it to the Commander-in-chief.

507. Of those who fail, in what branch is the principal failure?—More in history, and next to history, in French.

508. Have any failed in dictation?—Yes, one or two every time, I think.

509. Do you find, generally speaking, that even those who have not failed are weak in that point?—No, I think not; they are very fair in general in that respect; and in the case of those who fail, I think it is not altogether to be attributed to ignorance; they are hurried very much; they are flurried, under the circumstances, very much.

510. Colonel *Dunne.*] Are there not many men who, though perfectly capable of writing from dictation, when they are first called on do not do it properly, but after a week's practice they do it with great facility?—Yes; sometimes they come up the very next examination, and do it very well.

511. Mr. *Rich.*] You would not send them back on account of a little false spelling?—No; the professor is very patient with them, and he will give them half-a-dozen different passages if he finds that they have only made one fault or two in a passage, and then he takes the aggregate.

512. Mr. *Hardinge.*] Does not the fact of their having a specified list of books in some degree encourage the system of cramming for the examination?—There are what are called text-books in every system of examination that I know of in the whole world, but we do not recommend any particular books now; we must have certain books ourselves to examine in, but we recommend none.

513. You originally did recommend books, did not you?—Yes, and it was objected to by Members of the House of Commons; and we received an order from Lord Raglan, the then Military Secretary, to discontinue that practice. We sent out a list, with a programme of the books that would be useful; that was our sole object. In history we recommended Keightley's "Greece" and "Rome," Russell's "Modern Europe," and Hume's "History of England." In geography we recommended a book written by Dr. Butler, of Shrewsbury. In arithmetic and algebra we recommended a book written by Professor Scott. Then we dictate from Lord Dover's "Lives." In French we have Vertôt's "Revolutions;" in Latin we take any edition of Livy, Virgil, and Cæsar's "Commentaries;" and in German we take Schiller's "Revolt of the Netherlands." We never did recommend any college class-book in fortification. I think we mentioned Straith's and Macaulay's "Treatises." Macaulay was a professor at Woolwich, and Straith at Addiscombe. We did not recommend any of our own professors' works, except Scott's and Chepmell's. I have received innumerable letters from tutors, begging to know what are our books of examination, and I have only a printed circular to return to them, to say I am forbidden to tell.

514. *Chairman.*] Is the examination at Oxford conducted in books named by those who are examined; the examination takes place, does it not, in specific books?—Yes, and what is called cramming exists there and everywhere.

515. Mr. *Rich.*] You stated that there had been some sad failures; what proportion do the failures bear on the first examination to those passing?—The total failures are not above one-tenth now.

516. After the four chances?—I do not think that there is any failure after the last chance; they all get through at last, but 10 per cent. fail on the first examination. If a man is well acquainted with history, geography, arithmetic, algebra, and Latin, we would not condemn him for not knowing much of fortification, French, and German.

517. What interval elapses between the four chances?—I believe they are given their own option. They get two chances at each examination; they are examined orally first, and if they show that they are confused, then they are put down

down to take their time at a table; that is what I call two chances. And they are treated the same the second time; but the Commander-in-chief only sends them up twice.

518. *Chairman.*] Do you put before a young man any task which shows whether he is a man of ability or not?—No, I do not see how you could do that; it has been thought of and proposed repeatedly, and I believe that they do something of the kind in the Prussian examinations for commissions: I have their course of examination.

519. Might a remarkably stupid man pass this examination after a certain degree of cramming?—Yes.

520. Has the examination fallen off lately; is it less strict than it was, or more so?—It is rather less strict than it was two or three years ago, in consequence of the great pressure by the parents and friends, complaining of our being so severe; I think that was the great cause of its being diminished, and then another cause was the principle which was established, that the test should be as to the qualifications of a gentleman, not as to any particular number of branches; and directly we were able to certify, though he was weak in some points, a young man had generally the education of a gentleman, the difficulty was got over a great deal.

521. What do you consider a fair test?—If they can pass in history, geography, arithmetic, and algebra, and were only weak in the others, but did not fail in them, we should say we considered that they had the education of a gentleman. Again, if they showed a good knowledge of Latin and a knowledge of arithmetic, algebra, and fortification, and were only weak in history, or geography, or French, or German, we should say that they had received the education of a gentleman, specifying that they were weak, and leaving it to the Commander-in-chief to deal with the case afterwards as he pleased.

522. Have you any certificates as to the young gentleman's character?—Yes; the Duke of Wellington established at the very outset, that they should have a certificate of their being confirmed; and where they were not of the Church of England, that we should receive a certificate from a clergyman of their own persuasion; that is always required of them, and they produce it.

523. Mr. *Rich.*] Is there any certificate as to their moral character?—The clergyman's certificate generally vouches for their morality; but not invariably.

524. *Chairman.*] Is there anything which prevents a boy who has been expelled from a public school obtaining admission?—I should think not.

525. You have no information from the place of education where he has been educated as to his conduct?—No, none whatever.

526. Lord *Lovaine.*] It would hardly be fair, would it, to make expulsion from a public school, a ground for rejecting him?—It would be hard upon him if that were the case.

527. Mr. *Rich.*] Are you in the habit of requiring a certificate from the master of the school at which he has been educated?—Never; they frequently send certificates without being required, but it is not any condition of the examination.

528. Colonel *Adair.*] Supposing a permanent military establishment is formed at Aldershot, might it not be advisable for the senior department to undergo a course of instruction there?—I hope that will be done for the good of the service. It would give the Commander-in-chief better opportunities of selecting good staff officers than any other mode.

529. Mr. *Rich.*] That was your object in mentioning Farnham?—Yes.

530. Do you find that it at all interferes with the discipline of the junior department at Sandhurst, having the senior department there?—Yes, slightly. There are many things in the senior department which it is just as well that the boys should not imitate; I will only mention smoking; and a gentleman would take three or four glasses of wine, but we would not wish a boy to do so.

531. On the whole you think that it would be more conducive to the discipline of the junior department if the senior department were removed?—Yes, I think so.

Veneris, 27° *die Aprilis*, 1855.

MEMBERS PRESENT.

Sir Francis Baring.	Mr. Rich.
Lord Lovaine.	Colonel North.
Sir George Tyler.	Colonel Dunne.
Colonel Adair.	Mr. Monckton Milnes.
Mr. Hardinge.	Viscount Monck.

THE RIGHT HON. SIR FRANCIS BARING, BART., IN THE CHAIR.

Edward Houndle, Esq., called in; and Examined.

E. Houndle, Esq.
27 April 1855.

532. *Chairman.*] WHAT office do you hold?—I am Secretary to the Commissioners of the Royal Military College.

533. How long have you held that situation?—I was appointed to it in November 1837, but my appointment was not confirmed under peculiar circumstances for six months afterwards.

534. Does that situation give you an opportunity of being acquainted with the expenditure of the college?—Yes, peculiarly so, because all the money matters pass through my hands.

535. Will you state what your duties are?—The subscriptions of the college used formerly to be paid into the hands of the agent of the college; but upon his being reduced, the whole of the duties were performed by the secretary, and it was settled that the subscriptions should be paid into the Bank of England to the account of the Board of Commissioners; the monies were, then, drawn when required, on a monthly estimate by the Commissioners, and disbursed by the secretary. This was the arrangement made for the performance of the duties on the reduction of the agent; but there was subsequently a further alteration on its being decided that the funds should be paid over to Her Majesty's Exchequer; namely, that the subscriptions when collected are transferred to the Exchequer. This has somewhat complicated the duties of secretary; but the arrangement causes no inconvenience to the College, whilst it is at the same time in harmony with the general system of the public departments under the Resolution of the House of Commons.

536. Do you perform the duties that were originally performed by the secretary and the agent?—Yes, excepting only that the subscriptions are not paid into my hands in money, but they are paid into the Bank of England.

537. What duties have you, as connected with the Board of Commissioners itself?—It is my duty to receive the orders of the Commander-in-chief for the assembling of the Boards, to call the Boards together, to record their minutes, to answer all questions and inquiries, and in fact to do all the business relating to the college in London.

538. What is your salary?—There were very peculiar circumstances connected with my appointment. The fact was, I was originally appointed upon 200 *l.* a year, to succeed Major Garvock, who was the previous secretary, but some opposition to that was made by the War-office, and I was ultimately appointed clerk upon 100 *l.* a year; which has since then been raised to 150 *l.*

539. Do not you hold some other situation in the public service?—Yes.

540. What situation is it?—I am chief clerk in the Adjutant-general's office. I have been in that position about a year.

541. Have you an account of the last annual payments of the military college?—Yes, I cannot do better, perhaps, than show the Committee an account which was furnished to the War-office for the last financial year, to the 31st of March 1854.

[*The following Paper was delivered in:*]

GENERAL STATE of the RECEIPTS and EXPENDITURE on account of the ROYAL MILITARY COLLEGE, from 1 April 1853 to 31 March 1854.

No. 1.

1853–4:	£. s. d.	1853–4:	£. s. d.
To Issues from the Exchequer during the Twelvemonth; viz.:		By balance on settlement of accounts to 31 March 1853, as per War-office letter, dated 22 February 1854, No. 37,443–374	109 19 –½
For Quarter ended 30 June 1853 £. 4,000 – –		By Charge of the Institution, as per Accounts; viz.	
Ditto – – 30 Sept. „ – 4,650 – –		For Quarter ended 30 June 1853 – £. 4,044 18 5	
Ditto – – 31 Dec. „ – 3,950 – –		Ditto – – 30 Sept. „ – 4,692 3 7	
Ditto – – 31 Mar. 1854 – 4,700 – –	17,300 – –	Ditto – – 31 Dec. „ – 4,026 5 –½	
To Amount of Deductions from Salaries applied in aid of Issues in same Period; viz.		Ditto – – 31 Mar. 1854 – 4,661 7 –	17,424 14 –½
Income Tax: For Quarter to 30 June 1853 – £. 58 16 5		By balance over-issued – – – – – –	87 16 6
Ditto – 30 Sept. „ – 58 7 9			
Ditto – 31 Dec. „ – 58 6 7			
Ditto – 31 Mar. 1854 – 54 14 10	230 5 7		
Superannuation fund for period to 31 March 1854 –	92 4 –		
TOTAL – – – £.	17,622 9 7	TOTAL – – – £.	17,622 9 7

No. 2.

To balance in the Exchequer, as per General State, to 31 March 1853 – – – – – – – –	6,307 – 4	By issues from the Exchequer, as above – – –	17,300 – –
		By amount of deductions from salaries for superannuations, as above – – – – – –	92 4 –
To subscriptions and rent of College land, from 1 July 1853 to 31 December 1853, paid over to Her Majesty's Exchequer – – – – – – – –	8,786 6 4	By ditto – ditto, income tax, as above – – –	230 5 7
		By balance, viz. between the College funds (as on the other side) and expenditure to 31 March 1854 – – – – £. 6,466 16 11	
To ditto – – ditto, from 1 January 1854 to 30 June 1854, ditto – – – – – – – – –	9,083 16 4	Over-issued thereon – – 87 16 6	6,554 13 5*
TOTAL – – – £.	24,177 3 –	TOTAL – – – £.	24,177 3 –

(Errors excepted.)

(signed) *G. A. Wetherall*, D. A. G.
J. Freeth, Q. M. G.
C. Yorke.

*MEMORANDUM:

	£. s. d.
To College funds, paid over to Exchequer between 1 April 1849 and 30 June 1853 – – – –	78,451 18 –
To ditto – – ditto – – (as above) – – 1 July 1853 and 30 June 1854 – – – –	17,870 2 8
£.	96,322 – 8

		£. s. d.
By issues from Exchequer to 31 March 1853 – – £. 69,395 – –		
By credits in aid of issues for same period – – – 1,214 6 9	70,609 6 9	
By issues from Exchequer to 31 March 1854 – – – 17,300 – –		
By credits in aid of issues for same period – – – 322 9 7	17,622 9 7	
By re-credit to Exchequer of sums not entering into ordinary expenditure, but advanced for the College services (*see* last General State) – –	1,535 10 11	
		89,767 7 3
	£.	6,554 13 5

(A true copy.)

Horse Guards, 10 August 1854.

(signed) *Edward Houndle*,
Secretary to the Commissioners, Royal Military College.

I have here a Paper which I am in the habit of laying before the Board of Commissioners; it is a sketch of the income and expenditure of the Royal Military College for each year since Parliamentary aid was withdrawn, which was in the year 1832, and it seems a fair account of the whole.

[*The following Paper was delivered in:*]

SKETCH of the INCOME and EXPENDITURE of the ROYAL MILITARY COLLEGE for each Year since PARLIAMENTARY AID was withdrawn.

	1832.	1833.	1834.	1835.	1836.	1837.	1838.	1839.	1840.	1841.	1842.	1843.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Income	19,851 10 –	*17,387 4 –	*18,515 4 –	*19,187 7 –	*18,810 11 –	17,943 15 –	18,173 13 –	18,417 15 –	18,347 13 –	*20,131 13 –	*18,210 1 9	*18,793 4 3½
Expenditure	19,740 6 –	17,347 16 –	18,486 3 –	19,157 3 –	20,150 14 –	*19,641 15 –	*19,143 12 –	*19,197 7 –	*18,914 11 –	*20,124 9 –	18,188 8 6	18,284 3 8½
Balance in favour of the College	111 4 –	33 7 –	29 11 –	30 4 –	– – –	– – –	– – –	– – –	– – –	7 3 7	21 13 3	509 – 7
Ditto against the College	– – –	– – –	– – –	– – –	1,340 3 –	*1,698 – –	969 18 10	779 12 –	566 17 9	– – –	– – –	– – –
Number of Cadets:												
Half-year to 30 June	180	180	188	197	191	184	180	193	181	193	186	184
Ditto 31 Dec.	180	182	191	186	187	183	192	178	195	191	184	186

	1844.	1845.	1846.	1847.	1848.	1849.	1850.	1851.	1852.	1853.	1854.	1855.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Income	*17,926 4 3½	*16,729 9 8	17,664 10 3	*17,688 18 9	16,989 10 3	18,489 10 3	*18,798 9 7¾	*18,980 19 9½	*18,925 11 6½	*19,663 4 2	20,713 8 3	—
Expenditure	17,582 3 3½	16,793 12 8	*17,600 1 9	17,939 13 11¾	*17,045 12 6	*18,467 6 –½	18,537 17 9½	17,141 15 –½	16,562 7 6½	17,443 3 5	17,731 14 1	—
Balance in favour of the College	344 1 –	– – –	64 8 6	– – –	– – –	22 4 2½	260 11 10¼	1,839 4 8½	2,363 3 11	2,220 – 9	2,981 14 2	—
Ditto against the College	– – –	64 3 –	– – –	250 15 2¾	56 2 3	—	—	—	—	—	—	—
Number of Cadets:												
Half-year to 30 June	185	163	168	181	160	178	185	181	179	178	170	—
Ditto 31 Dec.	168	167	183	166	173	179	178	181	179	180	190	—

* Including balances of previous year.

1841.—In the "Income" for this year is included the sum of 347 *l.*, being the proceeds of a sum derived from the sale of College land at Farnham in the year 1829, which had been intended to be applied to the erection of a fives court, and in the meanwhile invested in the funds; but not being sufficient for the work, was withdrawn by order of the Commissioners, and brought to account this year, and applied to certain repair of the college buildings. In the "Income" is also included a sum of 529 *l.* 7 *s.* 5 *d.* granted by Government to meet repairs of windows broken by hail-storm in the month of May.

1849.—It having been decided that the Royal Military College, though self-sustaining, should be placed in all other respects on the same footing as the public departments generally in pecuniary matters; accordingly, at the commencement of the financial year 1849–50, the funds were paid over to the Exchequer; and monthly issues are now drawn therefrom, on application made by three of the Commissioners to the Secretary-at-War. The amount so issued is credited to the account of their secretary at the Bank of England.

Memorandum.—The last vote by Parliament on account of the college was in 1832, when the sum of 2,000 *l.* was voted. Since that year the income has been derived solely from the subscriptions of the gentlemen cadets and a limited number of officers permitted to study at the senior department, and from rent of college land (about 70 *l.* per annum).

(Errors excepted.)

Horse Guards, 10 January 1854.

(signed) *Edward Houndle*,
Secretary to the Commissioners, Royal Military College.

542. Are you aware what the income and expenditure of the college was at the termination of the war?—I have a sketch here taken from the Army Estimates, commencing from the year 1803; and the next one is the year 1815. After 1809, which was the period the last Report of Public Inquiry went to there was an Estimate *in extenso* in that Report.

E. Houndle, Esq.

27 April 1855.

[*The following Paper was delivered in:*]

ESTABLISHMENT and CHARGE of the ROYAL MILITARY COLLEGE in 1803, taken from the Parliamentary Estimate for that Year.

		£.	s.	d.
General Staff	Governor	1,500	–	–
	Lieutenant-governor and Superintendent-general, with clerk	748	5	–
	Chaplain	250	–	–
	Surgeon	182	10	–
	Treasurer	300	–	–
	Paymaster	292	–	–
	Secretary to the Supreme Board	200	–	–
	Clerk to ditto	40	–	–
	Adjutant	182	10	–
	£.	3,695	5	–
Senior Department	Commandant	790	9	7
	Superintendent and clerk	275	5	5
	7 Masters	1,170	–	–
	2 Servants	36	10	–
	(30 Students, subscriptions of whom, 945 *l.*, was deducted from the charge.)			
	£.	2,272	5	–
Junior Department	1 Commandant			
	1 Superintendent and clerk			
	2 Inspectors and instructors in tactics			
	2 Serjeants			
	1 Corporal and clerk of the kitchen			
	1 Swimming-master			
	1 Master of sabre exercise			
	1 Drummer			
	8 Soldiers, as servants			
	19 Masters, including a riding-master and 2 fencing-masters			
	1 Housekeeper			
	1 Nurse			
	8 Women servants			

The estimated establishment of gentlemen cadets was 200, or—
110 at 94 *l.* 10 *s.* each,
40 at 40 *l.* each;
50 orphans gratis.

The Charge against the Public was 3,099 *l.*, after deducting 11,995 *l.* for Subscriptions of Cadets, viz.:—

	£.	s.	d.
General Staff	3,695	5	–
Senior Department	1,497	15	–
Junior Department	3,099	12	11
Working Pay, &c., for Detachment of Staff Corps employed at Sandhurst	600	–	–
Total Charge against the Public £.	8,892	12	11

ESTABLISHMENT in 1815.

General Staff	Governor	Charge, 7,418 *l.*, including 500 *l.*, governor's table money.
	Lieutenant-governor	
	Inspector-general of instruction	
	Chaplain	
	Secretary to the Supreme Board	
	Agent	
	Paymaster	
	Surgeon	
	Assistant ditto	
	Quartermaster	
	3 Clerks	
Senior Department	Commandant (vacant)	30 Students; charge 5,082 *l.*, after deducting 945 *l.* subscriptions.
	Assistant ditto	
	6 Masters	
	1 Clerk and storekeeper	
	1 Barrack-serjeant	
	2 Men servants	
	Housemaid	
Junior Department	Commandant (vacant)	For an establishment of 412 gentlemen cadets, of which 156 gratis, 100 at 27 *l.* 16 *s.* each, 156 at 100 *l.* each; making 37,247 *l.* in aid of a total cost of 58,547 *l.*, and leaving 21,300 *l.* to be provided by Parliament.
	Major	
	4 Captains	
	Adjutant	
	Serjeant-major	
	Quartermaster-serjeant	
	10 Serjeants	
	Corporal and clerk of the kitchen	
	13 Band	
	36 Masters	
	3 Clerks	
	Purveyor	
	Housekeeper	
	Assistant ditto	
	Nurse	
	Assistant ditto	
	Armourer	
	Porter	
	5 Women servants	
	31 Men servants	
	Clerk of Works	

ABSTRACT.

	£.	*s.*	*d.*
General Staff	7,418	7	2
Senior Department	5,082	11	9
Junior Department	21,300	9	2
Pensions	395	12	6
Provided by Parliamentary Vote - £.	34,197	-	7

In Estimate for 1816:

There appears to have been a reduction of 1 master, and an addition of 1 man servant. The establishments of gentlemen cadets the same. Total charge against the public, 33,819 *l.*, exclusive of 1,250 *l.* compensation awarded to the parishioners of Sandhurst.

In Estimate for 1817:

The reductions appear to have been as follows:

Charge for 2 commandants of the senior and junior departments (vacant) left out.

Assistant to the commandant senior department reduced. £. 500, governor's table money, discontinued.

6 Masters.
2 Men servants.
Corporal and clerk of kitchen.

Forage:

Governor - - - - - -	2 horses.
Lieutenant-governor - - - -	2 ditto.
Inspector-general - - - - -	2 ditto.
Paymaster - - - - - -	1 ditto.
Surgeon - - - - - -	1 ditto.

Clerk of the secretary to the Board of Commissioners.

Total charge against the public, exclusive of 490 *l.* for pensions, 27,664 *l.*; being a reduction of upwards of 6,000 *l.* from the preceding year.

In Estimate for 1818:

There appears to have been no further reduction of the staff. The establishment, however, of gentlemen cadets was taken at 330; viz.

80 orphans, gratis.
100 at 24 *l.* 19 *s.* average.
30 at 35 *l.*
120 at 125 *l.*, raised to this point in 1818.

Total charge, 24,774 *l.*, exclusive of 740 *l.* pensions, but including 750 *l.* for building observatory; being a further reduction on the preceding year of near 3,000 *l.*

In Estimate for 1819:

One serjeant added, and one man servant reduced.

Establishment only 320 gentlemen cadets; viz.

80 orphans, gratis.
130 at an average of 44 *l.* 16 *s.*
110 at 125 *l.*

Total charge, exclusive of 645 *l.* for pensions, 23,028 *l.*; being a further reduction on the preceding year of 1,746 *l.*

In Estimate for 1820:

In the summer of this year the senior department was removed to Sandhurst, and there were reduced—

Inspector-general of Instruction.	1 Barrack-serjeant.
5 Masters.	2 Servants.
1 Clerk.	Housemaid.

The number of students was reduced to 15.
In the junior department, 5 masters were reduced; 1 woman and 5 men servants.

The establishment of gentlemen cadets was taken at 290 only; viz.

70 orphans, gratis.
110 second class.
110 on the third class.

The total charge on the public for this year was 21,471 *l.* 16 *s.* 9 *d.*, including a pension list of and list of gratuities compared with the preceding year, was 2,202 *l.*

In Estimate for 1821:

No further reduction in staff or establishment of gentlemen cadets; charge, 18,738 *l.*; reduction of charge, 2,733 *l.*, as compared with the preceding year.

E. Houndle, Esq.

27 April 1855.

In Estimate for 1822:

A reduction of 1 master and man servant.

The establishment 290 gentlemen cadets as before; but composed of—

30 orphans, gratis.
150 at 46 *l.* each.
110 at 125 *l.* „

Total charge 15,687 *l.*, giving a further reduction of 3,051 *l.*

In Estimate for 1823:

No reduction in staff or establishment of cadets; charge to the public, 13,760 *l.*; showing a further reduction, as compared with the preceding year, of 1,927 *l.*

In Estimate for 1824:

One professor reduced; but a riding-master and a serjeant added. Total charge, 13,294 *l.*; showing a further reduction of 466 *l.*

In the Estimate for 1825:

There were reduced—

1 Captain of company.	Assistant housekeeper.
1 Serjeant.	Assistant nurse.
2 Masters.	4 men servants.

Establishment of gentlemen cadets, 216; the orphan class omitted for the first time; charge for this year, 14,833 *l.*, being an increase of estimate, 1,540 *l.* This increase, notwithstanding the above reductions, seems to have been owing to a difference as to the estimated and actual receipts from students.

In the Estimate for 1826:

No reductions, but forage for three horses for the riding-master in addition; also a professor of gymnastics, 191 *l.* 12 *s.* 6 *d.* Charge against the public, 13,135 *l.*; showing a reduction, as compared with 1825, of 1,698 *l.*

In Estimate of 1827:

Same establishment; charge, 13,229 *l.* Increase on the preceding year, 94 *l.*

In Estimate of 1828:

Same establishment, with the exception of professorship of gymnastics discontinued; charge, 12,917 *l.* Reduction of charges, as compared with preceding year, 312 *l.*

In the Estimate of 1829, the following reductions:

Pay of Lieutenant-governor reduced from 3 *l.* to 21 *s.* a day.

1 major.	5 masters.
1 captain.	3 men servants.
1 serjeant.	Clerk of works and clerk to the governor.

Total charge, 10,029 *l.*; showing a reduction, as compared with the preceding year, of 2,888 *l.*

In the Estimate of 1830:

Governor's salary reduced 500 *l.* a year. The number of gentlemen cadets taken at 170 only. Total charge, 7,656 *l.*; decreased charge this year, 2,373 *l.*; partly owing to the reductions of the preceding year not having taken place before the end of the first quarter. The half-pay of five officers also was transferred from the estimates to the half-pay list.

In the Estimate of 1831:

Agent discontinued. Total charge, 5,627 *l.*; being 2,029 *l.* less than the year preceding.

In the Estimate for 1832, continued to 31 March 1833:

No reduction of the personal. Total charge against the public, 2,638 *l.* This reduction is in comparison with the preceding year of 2,989 *l.*, and was obtained by the discontinued charge of clothing, and increased amount of cadets' subscriptions.

Parliamentary votes ceased. The establishment stood as under:

Governor.	16 masters.
Lieutenant-governor.	Four clerks.
Two captains.	Housekeeper.
Adjutant and paymaster.	Nurse.
Quartermaster.	Armourer.
Surgeon.	Porter.
Assistant-surgeon.	15 men servants.
Riding-master.	Two lamplighters. (Not specified in estimates, but included under the general charges of board and lighting.)
Chaplain.	One scullion. (Not specified in estimates, but included under the general charges of board and lighting.)
Serjeant-major.	Seven women servants. (Not specified in estimates, but included under the general charges of board and lighting.)
Quartermaster-serjeant.	
Eight serjeants.	
13 band.	One foreman of works, included in the sum for charge and repair of public buildings.

543. You have mentioned the Report of 1809 ; are you speaking of the Tenth Report of the Military Commission?—Yes.

544. Have you perused it?—Yes, very carefully.

545. Does that report contain a history of the college, both with regard to its finance and its rise and discipline?—Yes.

546. Are you able to say that that is correct, according to your idea?—Remarkably correct, and remarkably suited to the present times; all the recommendations there made were adopted. From the year 1809 to 1812, the only changes were these: the rate of lodging-money was higher than in 1809 ; I am speaking now as to the junior department. An additional master of practical surveying was appointed; also, two masters of fortification and one master of history, geography, and classics. An amount should also be added for allowance in aid of messing (which is a remarkable feature, not existing now), to the extent of 250 *l.*; there was less, a master of Oriental languages, and there was also a master of writing reduced, and there was lodging-money less for two captains, two senior, and three junior masters.

547. Do you mean that the expenditure in 1815 was nearly the same as that in 1809?—Yes, it would appear so.

548. Does that account contain a statement of the actual expenditure and income from 1803?—No; the Report of the Commission of 1810 appears to have gone very much upon the estimates, so I have adhered to them.

549. That is an account derived from the estimate, not an account derived from the payments?—Yes; I have also gone through the estimates from that time, until the college became self-sustaining.

550. When was it that the college became self-sustaining?—In 1832-3 ; the new financial year was also adopted then.

551. What was the expenditure and income of the year 1832-3?—The income was, in 1832, 19,851 *l.* 10 *s.*

552. What was the expenditure?—£.19,740. 6. ; the balance in favour of the college was 111 *l.* 4 *s.*

553. What was the income and expenditure account for the last year?—For the year 1853-4 the income was 20,713 *l.* 8 *s.* 3 *d.*; that included a balance of 2,220 *l.* from the previous year.

554. Then your income, correctly speaking, was about 18,000 *l.*?—It was.

555. What was the expenditure?—£. 17,731, and the balance in favour of the college was 2,981 *l.*

556. The decrease of the expenditure was about 2,000 *l.* a year ; can you state the items which have occasioned that diminution of the expenditure?—Yes: in the year 1850-1 the college was relieved of the repair of the public buildings, and they amounted to somewhere about, on the average, 1,000 *l.*

557. Colonel *Adair.*] Was that the first year in which the repairs had been defrayed by the public?—There was a great mistake committed at the time. In 1832, when the college became self-sustaining, no provision was made by the public for the repair of the buildings; the college bore the whole expense, and it was thrown into debt.

558. Colonel *North.*] Did the college benefit by the Woods and Forests taking the repairs into their own hands?—They did the work instead of the other ; but the Office of Works did it better, because they did not regard the expense in the same way. When the college had to do it, the extent of repair was necessarily regulated by the amount of available balance in hand ; and even the painting was often unvoidably postponed beyond the time when the buildings required it.

E. Houndle, Esq.

27 April 1855.

559. Did the money go back to the college to any fund?—No.

560. *Chairman.*] The expenditure which the college had to provide for by its own means was diminished by 1,000 *l.*?—Yes.

561. Has there been any diminution of the means of education; has any professor been dropped?—No; there was a professor of German added; but that was very little expense, and in the year 1842 the major was appointed. Colonel Prosser was appointed in succession to his predecessor, who was adjutant and acting superintendent of studies, and he received a little more pay.

562. Colonel *North.*] Was the riding-house built out of the proceeds of the college?—The riding-house was built in the olden times, but there was a fives-court built by the college at an expense of about 300 *l.* It so happened that when the lands at Farnham were sold, there was a balance of about 300 *l.* which had been accumulating by interest from that time, and that was applied to the building of the fives-court in the year 1841.

563. Was the riding-school built by private subscription amongst the cadets?—I have never heard that; the riding-house is one of the items here. This book of mine contains an account of everything that has been done since the year 1814.

564. Mr. *Rich.*] Have you not an annual debtor and creditor sheet, showing the income and the expenditure of the college regularly made out each year?—Yes; that is the identical paper which goes to the office of audit; the one for the present year is not yet prepared.

565. *Chairman.*] Is that the account for the Secretary of War?—That is the account for the Secretary-at-War.

566. When does your year end?—It is made to follow the financial year; on the 31st of March.

567. Colonel *North.*] How are the subscriptions of the boys paid?—They are paid into the Bank of England by the friends of the cadets, to the account of the Commissioners, and the order to the bank to receive the same is furnished by the secretary on a report of the amount he receives from the paymaster.

568. Is he combined with any other officer in the college?—He is the paymaster and quartermaster.

569. Colonel *Adair.*] Upon what requisition are the issues from the Exchequer made for the quarterly service of the college?—That of a letter from three of the Commissioners to the Secretary-at-War; I have one here, this being about the time when the Commissioners apply for the money for the month's expenses.

570. *Chairman.*] This is signed by three of the Commissioners?—Yes.

571. Is the governor always one of those who sign it?—No; it is signed by three of the Commissioners present at head-quarters; the adjutant-general, the quartermaster-general, and the military secretary.

572. This is prepared by you?—It is; and the amount is paid into my account at the bank by a write-off, and I disburse the money according to the particulars stated in estimate submitted by me to the Commissioners.

573. Colonel *North.*] In this account, there is fencing, planting, &c. for the college; there is a charge for that; the Woods and Forests do not undertake that?—No; what is called the improvement of the college estate is not by them. The Office of Works execute all works relating to the buildings, but not that appertaining to the land.

574. The fencing, and so on, is done by the subscriptions of the cadets?—It is.

575. *Chairman.*] This item appears, "To amount of deductions from salaries applied in aid of the issues in same period;" what are those deductions?—They are the usual deductions for superannuation and income, which are applied by the paymaster in aid of the remittances which I make to him, and the amount remains, as a credit, in the Exchequer.

576. "To amount of deductions from salaries applied in aid of issues in same period, viz.; income tax for four quarters, 230 *l.*"?—The income tax is deducted from the pay as it is paid over to the recipients.

577. That is the deduction you make for the income tax, for the different salaried officers?—Yes.

578. And the superannuation fund in like manner?—Yes.

579. Sir *G. Tyler.*] Do you pay the salaries of the officers?—No; I send the money to the paymaster, who pays all the salaries.

580. Does the paymaster pay it, less the income tax?—Yes.

581. Then

581. Then the paymaster is answerable to the Exchequer for the amount of income tax which he deducts from the payment of the officers?—Yes; or rather the Board of Commissioners: I am responsible; I am under a security of 4,000*l.*

582. *Chairman.*] Where do you pay the income tax to?—Now that the monies for the service of the college are issued from the Exchequer, the amount issued is short of the amount of these deductions. Formerly I paid over to the Exchequer, in cash, all income duty and superannuation, on the order of the War Office.

583. To whom does the War Office pay it?—To the Commissioners for the Income Tax, and they settle with the Revenue Department.

584. Do you mean the Commissioners of Income Tax for the particular department?—Yes. Here is an account of the income tax of the college for the last year. [*The Account was delivered in.*]

585. Mr. *Rich.*] Do you draw for the governor's salary in full, less the income tax?—Less the income tax. The War Office keep that in their hands.

586. Colonel *North.*] Nobody at the college is free from the income tax which the public are obliged to pay?—Nobody is free; it is precisely on the same rule as the general law.

587. *Chairman.*] Will you state to the Committee the details of the last year's payments that you have made up. The governor's salary is estimated here at 1,000*l.* a year. When was it fixed at 1,000*l.* a year?—He did receive 1,500*l.* a year at one time, and it was reduced 500*l.* a year in 1830.

588. Was that upon General Scovell coming in?—Yes.

589. The governor receives pay as Colonel of the 4th Light Dragoons, does not he?—Yes.

590. Has he any other advantages; has he a house?—He has a residence.

591. Is the residence furnished?—The residence is furnished.*

592. Colonel *North.*] Does he pay any interest upon the outlay on the furniture; because, in the navy, that is usual, and, I believe, in the army also?—I am unable to answer this question.

593. Mr. *Rich.*] It is a residence with a garden and grounds attached?—Yes, there are 13 acres of ground.

594. Colonel *Adair.*] Does he receive any allowances?—The usual barrack allowances, coals and candles.

595. Colonel *North.*] And forage?—Yes.

596. Mr. *Rich.*] For how many horses?—Four horses.

597. *Chairman.*] Are those four horses kept?—He has just the forage for that number of horses which he actually keeps, not exceeding the number allowed.

598. Colonel *North.*] The country only pays whatever the county in which Sandhurst is regulated at?—Yes; and that has given rise to questions, because the college is in no less than three counties. It is understood in every county what the amount is. A circular goes round from the War Office, and to that extent is the allowance in money for forage; the contractor furnishes so much hay and straw.

599. Mr. *Rich.*] If the governor's amount of forage allowed him by Government exceeds the amount he draws for in kind, to whom does the balance go?—He can only receive so much, whether it be the money or the forage in kind.

600. Colonel *North.*] It is a private arrangement of the general's whether he goes to a contractor or not, is not it?—I presume he has this option.

601. *Chairman.*] Is the allowance paid in money, or by an order from the contractor to furnish so much?—It is paid in money; the estimates contain so much for forage in money.

602. Is there a certificate that the horses are kept?—Yes.

603. Does that go to the War Office with your accounts?—Yes; under the head of forage accounts.

604. Colonel *Dunne.*] And the same with the officers of the senior department?—There is only a portion of them; viz. those who go out with the professor to sketch and survey ground at a distance from the college.

605. Mr. *Rich.*] Is the governor entitled to the use of any servants?—None whatever.

606. Is there any garden attached?—Yes.

607. Are

* *Mem.*—I find that I was under a misconception on this point. The governor and the other resident officers find their own furniture.—*Edward Houndle.*

F. Houndle, Esq.

27 April 1855.

607. Are there any other benefits or emoluments possessed by the governor? None.

608. *Chairman.*] What is the case with respect to the lieutenant-governor; his salary is stated at 383*l.* 5*s.*?—His half-pay is made up to that of a colonel of cavalry by an item of 13*s.* 6*d.* a day, under the general head of contingencies.

609. What does he receive from the contingent account?—About 240*l.* a year.

610. Colonel *North.*] Are his allowances the same as those of the governor?—In proportion: he has not so many horses; two, I think he has.

611. *Chairman.*] What does he get from the contingent fund?—His half-pay is made up to 21 *s.* a day.

612. The lieutenant-governor, in the estimate, is stated thus: staff pay, 21 *s.* a day, 383 *l.* 5 *s.*?—He has the pay of a colonel of cavalry besides that.

613. In the estimate his pay is 21 *s.* a day, amounting to 383 *l.* 5 *s.*; does he receive anything besides that 383 *l.* 5 *s.*, and if so, from what fund?—He does receive more under the head of contingencies.

614. You believe it to be paid from contingencies?—Yes.

615. Under what authority is that paid?—That is paid under the authority of a minute of the Board of Commissioners, of which Lord Hardinge was president, when filling the office of Secretary-at-War.

616. Will you state the purport of that minute to the Committee?—Yes; upon the retirement of the lieutenant-governor, Colonel Butler, who received 3 *l.* a day, the pay and allowances of his successor were fixed by a minute dated 21st of January 1829, in these terms: "In the event of this measure being carried into effect, the Board recommended that the successor to Colonel Butler as lieutenant-governor should be an officer, not under the rank of lieutenant-colonel, retaining his army rank, and receiving, in addition to the full pay of his regimental rank, whatever it may be, the sum of 1 *l.* 1 *s.* per diem, so that the pay and advantages which this officer would enjoy would amount in the aggregate to the annual sum of about 1,000 *l.*, in manner following, viz.: army pay of lieutenant colonel, 300 *l.*; pay as lieutenant-governor, 382 *l.* 5 *s.*; forage for two horses, coals and candles, and house without taxes, the Board estimate at 320 *l.*" So that he receives in money, 682 *l.* 5 *s.*

617. Mr. *Rich.*] Those contingencies are independent of the emoluments of the house and forage?—Yes, it is so much in aid of his pay.

618. *Chairman.*] There are emoluments from other sources placed opposite to it in the estimate amounting to 272 *l.* 17 *s.* 6 *d.*; where does that come from?—That he receives from other sources than the funds of the college.

[*The following Paper was delivered in.*]

ROYAL MILITARY COLLEGE.

RETURN of the Items for which Provision is made in the General Estimate for CONTINGENCIES for the Year ending 31 March 1856.

		£.	*s.*	*d.*
1	Regulated contingent allowance of the lieutenant-governor, 13*s.* 6*d.* a day	247	1	–
2	Regulated allowance of 1*s.* 6*d.* a day to nine staff officers in lieu of servants	247	1	–
3	Regulated allowance for performance of Divine Service in the college chapel during part of the vacations, when the chaplain is absent	10	10	–
4	Expenses of the organist and keeping the organ in order in the college chapel	45	–	–
5	Expenses of the band, musical instruments, music, &c.	45	–	–
6	Hospital expenses	100	–	–
7	Expenses of furniture, house linen, and bedding for the college	350	–	–
8	Cutting the hair of the gentlemen cadets, blacking for shoes, pipeclay, materials for scouring, &c.	30	–	–
9	Sweeping chimneys and destroying rats	15	–	–
10	Postage of public letters	35	–	–
11	Carriage of goods and parcels	35	–	–
12	Legal expenses, advertisements, &c.	36	–	–
13	Small sundries	11	8	–
	£.	1,207	–	–

G. Scovell, Governor.

619. Colonel *North.*]

619. Colonel *North.*] You stated that the lieutenant-governor had his allowance made up to the pay of a cavalry colonel; Colonel Prosser was a cavalry officer; supposing he was succeeded by an infantry officer, would he receive the cavalry pay?—Yes; that was the estimate of the Board.

620. *Chairman.*] Is his house furnished as well as the governor's?—Yes.*

* *See* Note to Answer 591.

621. Is it the case with all those who have houses that they are furnished at the public expense?—No, the others are not furnished.

622. There is no other emolument that you know of?—None.

623. Colonel *North.*] In regiments, officers are allowed servants; are the officers allowed servants at Sandhurst?—Yes. They have the allowance in lieu of servants.

624. Mr. *Rich.*] How many servants is the governor allowed?—I think he is allowed two.

625. Colonel *North.*] As a major, he would be allowed two servants?—I am not acquainted with that; those are local matters, which a resident officer could better speak to.

626. It is the usual allowance to all servants?—Every officer at the college has an allowance in lieu of a servant. I think it is 10 *s.* a week.

627. *Chairman.*] The salary of the major and superintendent of studies is 300 *l.* a year?—It is.

628. Besides that, he receives 173 *l.* 17 *s.* 6 *d.*; what is that derived from?—That is his half-pay as a major. He was a major in the Canadian regiment when he was appointed to the college.

629. That 173 *l.* 17 *s.* 6 *d.* is not paid from the contingent fund?—No.

630. Does he receive anything from the contingent fund?—Nothing. That is his half-pay; we have nothing to do with it; he gets it from the War Office quite independently of the college.

631. Has he a house?—He has a house.

632. The captains of companies receive 296 *l.* 17 *s.* 6 *d.*; what sources do their emoluments arise from?—Brevet-major Daly receives 136 *l.* 17 *s.* 6 *d.* as half-pay, and a pension for wounds of 40 *l.*, and Captain Mann receives 120 *l.* half-pay.

633. Have they houses?—Yes, every resident officer has a house.

634. For the paymaster and quartermaster there is 197 *l.* salary, and 82 *l.* extra emoluments; what does that 82 *l.* arise from?—That is his half-pay.

635. The ridingmaster has 127 *l.* extra emoluments; what does that arise from?—He receives 127 *l.* 15 *s.* half-pay, besides his college pay.

636. One surgeon, staff pay, 255 *l.* 10 *s.*, and he likewise has extra emoluments to the amount of 206 *l.*; from what does that arise?—He receives 24 *l.* for examining candidates for commissions, who go down to Sandhurst to be examined, and he receives also his half-pay, which he would receive whether he was at the college or not.

637. What does the assistant-surgeon receive?—He receives half-pay to the amount of 45 *l.* 12 *s.* 6 *d.*

638. Is the assistant-surgeon allowed private practice?—No.

639. What does the chaplain receive?—He receives 50 *l.* a year allowance for examining candidates for commissions. He examines in history and classics.

640. Colonel *North.*] Have the sergeants any half-pay or pensions?—No; I do not think the sergeants there are pensioners at all; they are enlisted soldiers for the college.

641. *Chairman.*] The professor of mathematics has the sum of 50 *l.* extra?—Yes; that is also for examining the candidates for the army, who go down to be examined there.

642. The two other professors in mathematics do not receive anything extra?—No.

643. Have the professors the benefit of the superannuation allowance?—Yes, under the Superannuation Act.

644. They are included in that Act?—Yes; the only peculiarity with regard to the professors, is that the widows of those who entered previously to a certain date are entitled to a pension.

645. But that is not the case now?—No.

646. Colonel *North.*] Their salary increases according to the time they remain, does not it?—Yes; I have here a minute of the year 1808, which contains the establishment as then fixed. It is a progressive increase, according to the length

E. Houndle, Esq.

27 April 1855

of service. After three years' service, a professor receives 5 per cent. more salary; after six years, 10 per cent.; after nine years, 20 per cent.; after twelve years, 35 per cent.; and after fifteen years, 50 per cent., beyond which there is no increase.

647. Mr. *Rich.*] Is that minute in force now?—Yes, it is.

648. *Chairman.*] The master of arithmetic has 82 *l.* 2*s.* 6*d.* from extra emoluments; what is that amount derived from?—He is a lieutenant; the 82 *l.* 2*s.* 6*d.* is his half-pay.

649. The professor of fortification likewise has 146 *l.*; is that half-pay?—Yes, he is a military officer.

650. The master of fortification has 120 *l.*; is that half-pay?—Yes, that is half-pay too.

651. The professor of military surveying has 82 *l.*; is that half-pay?—Yes.

652. The master of military drawing receives pay as captain of the 55th foot, 170 *l.*; is that full-pay?—He is there now upon probation; they are allowed a year to decide whether they will continue there or not. An officer is not permitted to go on half-pay under 21 years' service, but there is an exception as regards officers who become professors. On this, I beg to explain. The military professor of short full pay service receives half-pay conditionally. He is permitted to reckon his service as a professor as military service; but should he cease to be a professor before completing the period of 21 years altogether, he must go back to the army and serve.

653. The master of French has 50 *l.* extra; is that for the examination of the general commission?—Yes.

654. The master of history, geography, and classics likewise receives 50 *l.*; is that for the same purpose?—Yes.

655. Colonel *North.*] Is it the examination of the cadets, or the examination of officers for the army?—It is the examination of officers for the army.

656. Do they get anything extra for the examination of cadets?—Nothing.

657. They get 50 *l.* a year for the examination of officers for the army?—They do not all of them get 50 *l.*

658. *Chairman.*] Is there any other allowance besides the house?—No, only coals and candles, with the house, and in the case of the civilian professors, the superannuation allowance and the widow's pension. The military professors, when they quit the college, revert to their half-pay.

659. Sir *G. Tyler.*] Do those officers on half-pay receive allowances besides the half-pay?—Yes; they receive all the emoluments that a professor receives whilst serving.

660. *Chairman.*] Then there is "Expense of the riding-school, and of instructing officers and gentlemen cadets in intrenching, sapping, and pontooning, with charges for materials, models, &c., 200 *l.*" Have you that account; is it furnished you in detail?—No, the detail of instruction is not furnished in any account.

661. Do they send you up the sum total of the charge without the details?—Yes; there is no detail.

662. Colonel *North.*] That seems a small item to combine all those expenses; how is that?—The detail does not show what duties have been discharged, but I am unable to say why it does not.

663. *Chairman.* With respect to the charges for materials and models, they are bought somewhere; are the bills sent in?—Yes, the bills are sent in from the tradespeople who supply them.

663*. Then they do send you the details of the expenditure?—The bills are paid, and the vouchers are checked at the Secretary at War's office.

664. Colonel *North.*] There are the materials for making fascines and gabions, and all those things, and they are constantly raising works; is this to cover that expense?—Yes.

665. *Chairman.*] The next item is four college clerks; have you the means of stating to the Committee how they are employed?—They are employed in writing in the offices of the governor, the lieutenant-governor, and the paymaster; they have a great deal of writing to do.

666. There are three at 200 *l.* each, and one at 90 *l.*; have they houses?—They have portions of houses; they have apartments.

667. Have they coals and candles?—Yes; I understand that the allowances go with the houses; every one who has a house has the barrack allowance.

668. Have they any other emoluments?—Nothing else.

669. Do

669. Do you know how long they have been in the office?—No I do not; I have the means of knowing, because this account which comes to the War Office to be audited, shows the date of appointment.

670. Do their salaries increase according to their length of service?—Yes, under a fixed scale.

671. What is the scale of the pay of those clerks?—I believe they rise 10 *l.* every two years.

672. Beginning at what?—The junior one now began at 70 *l.*; it was fixed by a Minute of the Commissioners.

673. What is the maximum to which they rise?—£. 200.

674. Three of them have risen to 200 *l.*?—Yes.

675. There are one housekeeper, one nurse to infirmary, one armourer at 3 *s.* a day, 15 men servants at 16 *s.* each a week; what are they?—They are the domestic servants belonging to the college, and are employed in the charge of the linen of the gentlemen cadets, in cooking and cleaning.

676. Mr. *Rich.*] Is their pay independent of their board?—The domestic servants receive board wages, besides their wages, I know, but I presume only for the periods of the college vacations. I cannot speak to this satisfactorily, owing to my not being resident at the college.

677. Do the labourers employed on the estate receive 16 *s.* a week pay, and board and lodging besides?—No, nothing besides their wages.

678. What do they receive?—I believe I am correct in saying that they receive nothing besides their wages of 16 *s.* a week.

679. Colonel *North.*] There is no charge at all for cooking?—That comes under the head of the domestic servants.

680. All the beds are made by men at the college; no women are allowed in the dormitories?—No; these persons are employed in washing, I presume.

681. *Chairman.*] How do you furnish the provisions?—They are furnished by contract.

682. Is that by open competition?—It is by open competition.

683. Where is the contract made; is it made in London, or at the college?—At the college; the Board of Commissioners do not interfere with regard to the contracts; that is managed entirely by the governor.

684. Is it an annual contract?—Yes; I know that by the lawyers' bills that come before the Commissioners.

685. Colonel *North.*] Is the beer purchased in the same way?—Yes.

686. *Chairman.*] Are the coals, candles, and oil entirely supplied by contract too?—Yes.

687. Are the coals, candles, and oil allowed to the different officers by a fixed allowance, or in what shape is that granted; how is that checked?—That is entirely under the control of the governor of the college.

688. There is an item of forage for the governor and lieutenant-governor; there is an increase in the estimate of this year, compared with the last; how do you account for that?—That is in consequence of the increase in the market price of forage; we all know that hay, and straw, and such things have been much dearer; that is all under a contract which is settled by the War Office.

689. How is the stationery supplied?—The stationery is supplied by contract; all the supplies are by contract.

690. Are the officers and professors supplied with stationery as well as the students?—Yes.

691. Is stationery sent to their houses?—No; it is only used in the halls of study, I believe.

692. Mr. *Rich.*] Have the governor and the other officers stationery allowed them?—Only for public purposes; the stationery which I use comes from the college.

693. Is there a supply of stationery sent in to the governor on his requisition?—Yes.

694. *Chairman.*] Who is it at the college who checks all those details of expenditure?—I believe the governor himself looks very closely into it, and of course the lieutenant-governor helps him.

695. Colonel *North.*] Is there any regular auditor?—The Board of Commissioners are supposed to exercise a control over the expenditure, but the War Office now audit the accounts.

696. *Chairman.*] If a requisition is made for stationery by the governor who has

E. Houndle, Esq.

27 April 1855.

has the store of stationery, to whom would the order go?—I send annually an estimate to the governor of the college of the amount that the Board of Commissioners are likely to want during the year, and I receive it from tradesmen in London.

697. Who has the store of stationery at Sandhurst?—I fancy it must be the major of the college; the major and superintendent of studies.

698. Lord *Lovaine.*] Then has the secretary charge of the stationery?—No.

699. Mr. *Rich.*] To whom do you consign the stationery which is sent?—I send a requisition in to the governor of the college, and he desires the tradesmen to supply me, and it comes to me from the tradesmen.

700. When you send the stationery from London to the college, to whom do you address?—I must beg to explain that I am only able to speak as to the stationery supplied for the use of the Commissioners, in which I include their secretary; my requisition for this goes to the governor of the college.

701. Is the stationery supplied to the college for the general purposes of study, and otherwise, furnished by tradesmen in London, on contracts made by you?—Not by me. They are made by the governor of the college. The governor manages all the contracts.

702. To whom is that stationery transmitted by the contractors?—To the governor of the college, or to any officer whom he appoints.

703. Is the paper which you require sent to you direct from the contractors in London?—Yes.

704. Colonel *Adair.*] As such a large proportion of stationery is required for the college, would it not be advantageous to furnish your requisition from the Stationery Office, and debit the college with the amount?—It would be better, no doubt.

705. Has such a proposition ever been made?—The college has been a very peculiar establishment. It was separated from the other departments, and thrown entirely on its own resources in the year 1832. It then had to supply its own stationery, and of course it went to whomsoever it was thought fit to employ. The Stationery Office has had nothing to do with it; but it would be, no doubt, advantageous, in point of expenditure, that the Stationery Office should furnish it, as indeed it did prior to 1832.

706. *Chairman.*] Is there a great deal of drawing-paper for military drawing, which is peculiar paper?—Yes. I suppose it is the paper that is used by civil engineers. I happen, from my other employment, to know that the Stationery Office can get anything that is required; they may not have it in store, but they get it.

707. Have you an account of the actual expenditure in contingencies for the last year?—No, all the accounts are in the War Office now, for the last year; they go in there quarterly, and are audited.

708. There is an item here called "Fencing, planting, and improvement of the college estate;" under whom is that done?—That is done under the governor.

709. Entirely?—Yes.

710. The Woods and Forests have no responsibility at all as to that?—No; all they have to do with is simply the repair of the buildings.

711. What is the amount of the estate belonging to the college?—Somewhere about 300 acres.

712. Mr. *Rich.*] Is there an account kept of the thinning of the plantations for the last 30 or 40 years?—Yes.

713. Are there any profits arising from the plantations?—I fancy that the thinnings are all applied to the purposes of the college.

714. Under what authority?—Under that of the Board of Commissioners; it was arranged some years ago. Lord Palmerston, when he was Secretary of the Board, did it. I might mention that I know there must be some small accounts in that way, which the governor could better explain than I can. The Board of Commissioners do not interfere with those matters under ordinary circumstances.

715. Who has the control of those considerable plantations?—The governor.

716. Is there any account rendered of the expenditure and the profit?—There is no profit, or at least it must be very trifling indeed.

717. There is timber there of 40 or 50 years' growth?—They require gates, and

and it is used on the ground for various purposes, and the thinnings no doubt are used for firewood. I believe the governor to be most particularly correct in all these things.

718. *Chairman.*] In what item is the charge made for anybody who is employed in the grounds. Is it on the 300 *l.* for workmen?—It would come under the head of "Improvement of the College Estate."

719. The establishment is included in the 300 *l*?—Yes.

720. Is that 300 *l.* the balance after deducting whatever may be received for rent, and for the timber, or is it the whole expense?—I fancy that it goes to cover the whole expense of all this. I understand it so.

721. If by accident there is 100 *l.* taken for the cutting down of the trees for timber, is that 100 *l.* carried to the payments into the Exchequer to the revenue, or is it deducted from the expenditure, and does the 200 *l.* represent it?—What is not expended is not drawn: the whole of the receipts go into the Exchequer, and no more is drawn than is required.

722. Did you ever receive anything on account of timber cut?—No; because none is sold, I presume.

723. Mr. *Rich.*] Have you no account whatever rendered with regard to the management of the estate?—None whatever.

724. The buildings, you say, are under the Woods and Forests?—They are.

725. Do you see any objection to placing the estate under the Woods and Forests also?—I do not know why it should not be so.

726. No account is rendered to them of it?—No.

727. You do not see any objection to placing the estate under the Woods and Forests?—I cannot see any objection to it.

728. Colonel *North.*] Is this estimate for "Fencing, planting, and improvement of the college estate" always 300 *l.*, or does it vary from year to year?—The estimate is only the presumed expense that will be incurred, and it must not exceed that.

729. You were asked, if there had been a sale of 100 *l.* worth of timber, would the estimate next year be for 200 *l.* or for 300 *l.*?—The principle upon which the estimates are prepared is the expenditure for the previous year, whatever that may be. I do not believe they are much given to cutting down timber at all; for, oddly enough, a representation came from an inhabitant at Blackwater, saying that he was very much inconvenienced by the quantity of trees growing before his house.

730. Mr. *Rich.*] Some judicious thinning might be of use?—Yes; I believe it wants a little thinning.

731. You said that the lands were sold at Farnham; do you know what became of the proceeds?—They were lodged in Exchequer bills, and they were ultimately applied to building a fives court. In the income of the year 1841 is included a sum of 347 *l.*, being the proceeds of a sum derived from the sale of college land at Farnham in the year 1829, which were intended to be applied to the erection of a fives court, and in the meanwhile invested in the funds; but not being sufficient for the work was withdrawn by order of the Commissioners, brought to account, and applied to certain painting of the college buildings. There is also another feature in the year 1841; in the income is included a sum of 529 *l.* 7 *s.* 5 *d.*, granted by Government to meet repairs of windows broken in the month of May.

732. Colonel *North.*] Would not that come under the Woods and Forests?—The college was not under the Woods and Forests till about the year 1850; and then came these large balances in favour of the college, when it was relieved of the repairs. With regard to the aforesaid grant to meet extraordinary repairs of the college building, I beg to direct the attention of the Committee to the fact shown in the general state of the college finance for the year 1853-54, that this, as well as another grant, has been repaid to the public.

733. Mr. *Rich.*] You stated that the professors generally, and some of the officers, receive about 50 *l.* extra for conducting the examinations of candidates for the army, independently of the college examinations?—Yes.

734. Do those examinations take place during the vacation?—They take place whenever the Commander-in-Chief pleases. I think it is once a month.

735. At what hours of the day do they usually take place; is it during the hours of business?—I rather think it is in the hours of business; but the governor arranges the business so that it shall not be materially interfered with, and I dare

E. Houndle, Esq.

27 April 1855.

I dare say the examinations take place when he would not be otherwise employed in his ordinary duties.

736. Can you speak from your own knowledge on that subject?—No.

737. You stated that your own salary was originally 100 *l.* a year?—Yes; I was appointed really at 200 *l.* a year. Perhaps I may be allowed to make a statement with respect to that: in November 1837, I gave in my bond and the other things, and the Commander-in-Chief was disposed to agree to it, but before he did so, for form sake, it was sent to the War Office, and there there was some extraordinary feeling which prevented its being confirmed, and it remained in abeyance for six months; at the end of that time it was agreed to, on condition that I should be a clerk, and upon half the salary; that was 100 *l.* a year, and so it went on till the year 1849, when Mr. Fox Maule was President of the Board of Commissioners, and it was settled that I should receive an additional 50 *l.* a year, and Mr. Beresford agreed that the name afterwards should be secretary; so I stand now as secretary to the college at a salary of 150 *l.* a year.

738. That duty you perform at the same time with your duty in the Adjutant-general's office?—Yes; it is considered that I am fitter for the duty of secretary to the college, as being in a public department, ready always when anything is wanted relative to the college.

739. But your main duties are at the Adjutant-general's office?—They are.

740. Colonel *Adair*.] In this return relating to the income-tax, a certain number of the professors are debited with contributions to the superannuation fund; what is the nature of that fund?—That is under an Act of Parliament, the superannuations being deducted from the salary in the proportions of 2½ per cent. for salaries below 100 *l.* a year, and 5 per cent. for salaries above 100 *l.* a year; the income-tax is reckoned upon the salary after this deduction.

741. Colonel *North*.] With regard to the rates and taxes, does not the college, being a Government establishment, come under the head of a barrack, and therefore not liable to rates and taxes?—One would suppose so, but all this, I imagine, has arisen out of the circumstance of the college not being regarded as a public department in any other sense than its accounts being audited publicly; now I imagine it is a public department, and might be exempted accordingly.

742. Is there any such rule applicable to the Royal Military Asylum?—The Royal Military Asylum has never been on the same footing as the Sandhurst College; it has never been a self-sustaining institution.

743. With regard to the examination of young men for commissions in the army, is there any reason why they should not assemble at any public place, such as the Horse Guards, or any other place where there is a large room, where they might be examined, by the professors coming up from Sandhurst, instead of the young men going down to Sandhurst?—The only objection that occurs to me is that expense would be then thrown upon the college, which is now borne by the individuals benefitted.

744. Great irregularities are frequently occurring at Sandhurst, over which the authorities have no control whatever; 50 or 60 young men go down there and scandalise the whole neighbourhood, and the magistrates have no right to interfere?—The college, as it appears to me, is not responsible for the morality of the public, and those persons are part of the public. If they choose to act improperly, that is no concern of the college.

745. Still the scandal remains, and people do not consider the reason of it; do you know officially any reason why the examination should not take place in London in preference to Sandhurst?—I think there is a very great objection, because you would be bringing up the professors from their proper duties to guard against the immoralities of persons in whom you have no interest.

746. Mr. *M. Milnes*.] Is any additional expense incurred by the college on account of the general examinations which take place of young men for admission into the army?—No; except what is paid by the public (not out of the college funds) to the professors.

747. Sir *G. Tyler*.] Are the young men who are examined for their commissions at Sandhurst educated at all in the neighbourhood of the college; do they go there to study before they go up for their examination?—No, they do not; they are utterly unknown to the college or its neighbourhood; they are part of the public, and they come there to be examined upon certain points.

748. So that in fact the only time that they are there is during that period when they go for their examination?—Precisely so.

749. *Chairman*.]

749. *Chairman.*] Have you any observations that you wish to submit to the Committee?—The amounts of subscription paid by gentlemen cadets of the Royal Military College, between the years 1803 and 1854, are as follows:—In the year 1803, the number of cadets was 160; the number of those that were entirely gratuitous was 50, and there were 110 paying 94 *l.* 10 *s.* a year. In 1808, there were 316 cadets; 79 were gratuitous, 174 paid 100 *l.* a year, and 60 paid 25 *l.* a year. In 1815, there were 412 cadets; 156 of whom were gratuitous, 100 paid 27 *l.* 10 *s.* a year, and 156 paid 94 *l.* 10 *s.* a year.

750. Mr. *Rich.*] Was that the number when the establishment was quite full?—Yes, it was a full establishment then, and that was the only time when there were 412; in 1818, there were 330 cadets, of whom 80 were gratuitous; 100 paid 24 *l.* 10 *s.* a year; 30 paid 35 *l.* a year; and 120 paid 125 *l.* a year, that being the first time that the present maximum rate appears. In 1819 there were 320 cadets, of whom 80 were gratuitous; 130 paid 44 *l.* 16 *s.* a year, and 110 paid 125 *l.* a year. In 1822 there were 290 cadets, 30 of whom were gratuitous; 150 paid 46 *l.* a year, and 110 paid 125 *l.* a year. In 1825 there were 216 cadets, none of whom were gratuitous; there were 30 who paid 20 *l.* a year; there were 134 who paid 53 *l.* a year; and 52 who paid 125 *l.* a year. In the year 1832 there were 182 cadets, of whom 13 paid 20 *l.* a year; 21 paid 40 *l.* a year; 31 paid 50 *l.* a year; 4 paid 70 *l.* a year; 17 paid 80 *l.* a year; and 96 paid 125 *l.* a year; then the orphan class entirely ceased. In 1854 there were 192 cadets, of whom 25 paid 40 *l.* a year; 1 paid 70 *l.* a year; 5 paid 80 *l.* a year; 24 paid 25 *l.* a year; and 137 paid 125 *l.* a year. Besides the above subscriptions, there are those which are paid in the senior department by 30 officers in the period prior to 1825, and by 15 since, at 30 guineas a year. I have prepared a memorandum which will bring in the Minute of which I spoke, which is as follows: "By the foregoing classification of the terms on which cadets were admitted, it appears that in the year subsequent to 1822, the gratuitous class ceased to exist; and instead of that class, one was established paying 20 *l.* a year." The following Minute of a Committee of the Commissioners will explain how that happened, namely, "The committee having met in compliance with the directions of the commissioners, and having had under their consideration the principle on which the board recommended that a further diminution should be made in the public expenditure of the college, have agreed upon the following Report, which they humbly submit to his Royal Highness the Commander-in-chief. First, of the orphan class; it appears upon a minute examination of the returns of the college, that although the established number of the class amounts to 70, yet that, in fact, the applications for admission do not come up to that extent, and that amongst these applications, and even amongst the orphans now present, there are many orphans whose friends are perfectly able to pay at the rates fixed for the respective ranks in the second class of the establishment, corresponding to those held by their fathers at the time of their death. The present number of orphans at the college amounts to 65; of these 15 will go off at the present vacation; and, of the remaining 50, it is understood that there are 21 whose families are not in that state of pecuniary distress which would warrant a demand upon the public for a gratuitous education, where claims to admission are, therefore, not in conformity (strictly speaking) with the principle originally established, of making the charitable means of the institution available, in their fullest extent, to cases of real pecuniary distress only. This appears to arise from the difficulty of drawing a line of distinction, whilst the facility of admission is so great, from the extent of the orphan class, and the inducement so strong to claim admission to it, from the magnitude of the boon given, namely, of an education wholly gratuitous (including also clothing and subsistence), which in no other situation could be obtained for even a considerably higher rate than that paid by the third class of cadets, viz. 125 *l.* The committee would therefore suggest, 1st. That in the case of all orphans whose claims are not fully made out, the option should be given of immediate admission to the second class, at the rate payable by the rank which the father held at the time of his death, or of waiting the chance of a vacancy in the orphan class (reduced in number,) when such vacancy might arise by there being no actual claimant whose family was in real distress. The committee are of opinion, that under this arrangement, the orphan class would not be pressed upon as at present, in any case, where the connexions could afford to pay the rate of admission to the second class, which

E. Houndle, Esq.

27 April 1855.

still would appear (comparatively speaking) very cheap education. The committee conceive that the orphan class, therefore, would not be too much limited if fixed at the establishment of 30. Adverting further to this diminution of expense, called for, on the part of the public, in the class of individuals to whom the boon will be of real benefit, and whom it may be possible to provide for under the present circumstances of the service, and taking into consideration, also, the various improvements, and the extension given to the plan of education since the first establishment of a college, the committee are induced to think, that to call upon the orphan class to pay a subscription each of 20*l.* per annum, would not only be a fair indemnity required on the part of the public, but would also tend, in some respects, to a more advantageous application of the charitable intentions of the institution."

751. Colonel *North.*] What committee was that?—It was a committee of the commissioners of the college, who reported to the Commander-in-chief, and the gratuitous education was done away with, and instead of that, 30 cadets paid 20*l.* a year, and that went on till 1832; they now pay 40*l.*

752. In what year were there 412?—It was in 1815 that there were 412.

753. *Chairman.*] Have you made out for any department a calculation of the expense of the maintenance of a student, and also the whole expense of the student, including the education?—The entire expense of a student upon the present establishment of the college is about 80*l.*, and the mere boarding expense seems to be about 65*l.*

754. Mr. *Rich.*] Do you mean board and clothing?—Yes, without tuition.

755. That includes the whole cost of a cadet?—Yes.

756. Was that estimate formed upon a calculation of the present numbers?—Yes.

757. Would the expense vary if the numbers increased?—Yes, undoubtedly it would.

Major *Addison* called in; and Examined.

Major *Addison.*

758. Mr. *Hardinge.*] YOU are a major in the army, are you not, and deputy-assistant adjutant-general?—Yes.

759. Were you educated in the junior department of Sandhurst College?—No; I was at the senior department.

760. What certificate did you obtain at the senior department?—A first-class certificate.

761. Although not educated at the junior department, are you at all acquainted with the general system of education pursued there?—Yes, from having been at the place, and from different private sources.

762. What is your opinion of the system of education pursued there as regards the mental training of the cadets?—I think it defective in the want of some central study; I had better explain this by considering the effect of the classics in the public schools. They imply research, and memory, and involve collateral subjects, such as history, geography, political movements, government, taste, and so forth. I do not find anything in the Sandhurst system at all analogous to that study. I think there might be something which would supply it, which I can mention afterwards. Then I consider the Sandhurst system also defective in their method of steps, as they are termed.

763. Will you explain in what way you consider that system of steps defective?—It was the custom, and I believe it is now, for each cadet to take up a step at a time, for instance French, and after passing his examination in that at any part of his course, he has then done with it. Now I consider this defective; he should carry the whole of his work up with him at his final examination; by this system, a vast deal of it must necessarily be lost.

764. With regard to the study of military history at Sandhurst; have you any observations to make upon that?—I consider that is a point which is not attended to at Sandhurst, and that it might fairly take the same place at Sandhurst as the classics occupy in the public schools. By military history, I mean the history of campaigns, and of great commanders, and of sieges, which I would have the basis of the military instruction. I was for five years adjutant and secretary of the Military Asylum at Chelsea, and there I instructed the normal students for regimental schoolmasterships in fortification, military drawing, and so forth. I used to begin with some elementary work, to give them the mere principles, and as soon as practicable, I used to take them into Jones's

"Sieges,"

Major *Addison.*

27 April 1855.

"Sieges," for instance; that was a history of the different sieges in Spain, and others; also the French siege of Antwerp; and I found invariably that their intelligence on the subject began to open the instant I brought them into this military history. I think that could be extended very far, and be made actually the basis of instruction of both the senior and junior departments at Sandhurst. In this view, fortification would be a branch of that study; surveying and military drawing would also come in collaterally. There is a very strong opinion of Napoleon's on the same point; he says, "that next to experience, military history is the study for an officer."

765. Where is that opinion to be found?—In the course of his conversations at St. Helena; from these a book of Maxims has been drawn up, in which it is contained; it is as follows: "Les généraux-en-chef sont guidés par leur propre expérience ou par leur génie. La tactique, les évolutions, la science de l'officier du génie, de l'officier d'artillerie, peuvent s'apprendre dans des traités; mais la connaissance de la grande tactique ne s'acquiert que par l'expérience, et par l'étude de l'histoire des campagnes de tous les grands capitaines. Gustave-Adolphe, Turenne, Frédéric, comme Alexandre, Annibal et César, ont tous agi d'après les mêmes principes: tenir ses forces réunies, n'être vulnérable sur aucun point, se porter avec rapidité sur les points importants; tels sont les principes qui assurent la victoire: inspirer de la crainte par la réputation de ses armes, voilà ce qui maintient la fidélité des alliés et l'obéissance des peuples conquis." Then he says again, in another maxim: "Lisez, relisez les campagnes d'Alexandre, Annibal, César, Gustave, Turenne, Eugène, et de Frédéric; modelez-vous sur eux; voilà le seul moyen de devenir grand capitaine, et de surprendre les secrets de l'art de la guerre. Votre génie, éclairé par cette étude, vous fera rejeter les maximes opposées à celles de ces grands hommes." That is a very strong opinion of Napoleon's upon this subject.

766. Have you any remark to make about the age at which cadets are admitted at Sandhurst?—I think they are admitted too young. I would say that they should not be admitted under 16, but then there should be a very stiff examination on entrance to ensure at least a good public school education up to that age.

767. Would not that plan tell injuriously on the orphan cadets?—It would tell in this way; it would hardly be necessary to keep them longer than a year or a year and a half at the college, supposing them to enter at 16. Then, granting that we had the same number of 180 cadets, 150 or some such number would go out every year; now it would be impossible to grant commissions in time of peace, probably to more than the present number, about 30, and consequently the difference between that and 150 cadets would go out unprovided with commissions. That would make the commission much more of a prize, and consequently a stimulus; but a great number of the orphan cadets decidedly would not get it. In the first place, the difficulty would be very much increased of getting a commission, and then in many cases their previous education would probably have been defective from want of means to work it up decidedly. I think it would tell injuriously on the orphan cadets.

768. Colonel *North.*] Do you propose that 150 retiring should be compulsory; that they must go, whether they choose it or not, every year?—No; I should say there must be a limit to the time, whatever that limit might be. A year and a half would make them 17½; two years would make them 18, and after that would be too long, certainly; but even granting they might remain for two years, the same thing would hold in a reduced ratio; about 100 would go out every year probably, and out of 100 only 30 could get commissions without purchase.

769. Mr. *Hardinge.*] Do you approve of the system of the college as carried on by the system of the non-commissioned officers reporting?—I can only speak from my idea of the principle of the thing, and having been connected with the Military Asylum for a good many years, I know what it would lead to. I should say it must be injurious. I consider that a system of confidence would be very preferable.

770. Mr. *Rich.*] What do you understand by a system of confidence?—If you take smoking, for instance; smoking within the precincts will be forbidden by the rules of any college. It would be a fair thing to put the cadets on their honour not to smoke in the rooms, or at any rate not to leave it for the serjeant, but for the head of the rooms and the under officers to report. I would

Major *Addison.*

27 April 1855.

rather trust the heads of the school, the under officers and the corporals, than place the discipline in the hands of the serjeants; I am satisfied that it must be, except you get very superior men indeed, open to a great deal of corruption.

771. Colonel *North.*] You refer to the serjeants of the college?—Yes.

772. Not the gentlemen serjeants?—No.

773. Colonel *Dunne.*] You object to that system of espionage of the staff serjeants over the cadets; would you not think it would be as bad if it was transferred to the responsible under-officers, and the under-officers who are cadets themselves?—I think my experience of public schools is in favour of that. I mentioned a system of confidence just now; the confidence that I mean is in the head boys; the few in whom you repose the government of the school, the same as at Eton.

774. Would you entrust under-officers with the power of actual punishment, or merely the power of reporting?—When they are little fellows, and they are impudent, he should have that power, to a certain extent.

775. Has not that very subject been debated at Harrow, and very great fault found with that practice?—Yes; it should be confined within proper limits.

776. Is not it difficult to assign limits?—I do not think so; it is a very good thing for all parties concerned to have a certain discretion; it is a good thing to train a boy to exercise moderation.

777. *Chairman.*] Would it not be more difficult in a military school to allow a blow than in a civil school?—They have fighting at all schools, civil and military.

778. Colonel *Adair.*] Would you recommend the monitors to take notice of breaches of simply scholastic discipline, as in the case of smoking?—Yes; within the precincts of the place, I should say so; in their bedrooms, for instance.

779. Are you aware of any instance of that sort in any public school?—No. At the Military Asylum each room was under its head, and he was bound to report. That is a very similar case.

780. Mr. *Rich.*] Do you imagine that at a military college the senior officer of the company, under-officers, and the heads of rooms in the dormitories are not bound to report irregularities?—I have no doubt they are.

781. You would allow that system to remain; but you would do away with the authority of the staff serjeant?—Yes; I would not have the staff serjeant to report whether the cadets are doing their duty.

782. Mr. *M. Milnes.*] Is not there this difference between a military college and other public schools, that these upper boys will, in a very short time, have to exercise habits of command over bodies of men, and therefore is it not an authority which may be very useful to them, both as learning it themselves and supplying it to others?—Yes, decidedly. I should say that rather makes for my view, that you should lodge the power in the hands of these cadets.

783. Mr. *Rich.*] You would only take away the power from the staff serjeant?—Yes.

784. Lord *Lovaine.*] What resource have you against arbitrary treatment on the part of these superior officers?—Only the tone of the school; I do not think there is any resource, whether you have the serjeant or not, against it; there may be any amount of espionage, and yet, if the tone of the place is bad, cruelty will be exercised.

785. *Chairman.*] Is it your experience of public schools that you can rely upon monitors to report the breaking of bounds, or any of those offences against the rules of the school?—Not altogether, but to a considerable extent.

786. But generally?—I should say in general, yes; but I cannot admit that you should rely upon them altogether.

787. Is not it your experience that the boys are very apt to take the law into their own hands, and punish those faults themselves without going to the master?—Yes, that is very much the practice at public schools.

788. Is there not rather a strong feeling in public schools as much as possible not to go against a school-fellow to the master?—Yes; and I think it is rather well for all parties that it should be so, that there should not be tale-telling.

789. Then your system includes necessarily a power of punishment given to the under-officers?—A limited power of punishment.

790. By the first?—Yes.

791. Mr. *M. Milnes.*] Have you any practical grounds for speaking of corruption?—

ruption?—No; I only go upon the general feeling of the matter; I have generally heard it said so.

792. *Chairman.*] You stated that according to your opinion the age was too young?—Yes.

793. Do you intend to give the power of personal chastisement at the age of 16?—It could not really be exercised in many cases then, and I do not know that it is absolutely necessary to have personal chastisement in the case at all; I think it would be possible to bring in a proper system of reporting by the under-officers.

794. Where you have young men of 16, probably you may think that personal discipline would be almost impracticable; if that is the case, do you think you can rely upon school-fellows for reporting their own school-fellows for breaches of discipline of this kind?—I think for a very serious breach of discipline you can; I do not think you can go much further than that.

795. What is your punishment for small breaches?—I quite admit the difficulty, and it is a balance between having serjeants and having, I fear, a good deal of corruption, and on the other hand a good many things going unpunished; it is a balance of difficulties.

796. You would rather have the minor breaches go on, than have the possibility of corruption?—Decidedly.

797. Mr. *M. Milnes.*] Are these serjeants generally men of education?—No; they are of the same rank as serjeants in the army.

798. Is the practical effect of this authority of the serjeants to introduce much familiarity between the young men and the serjeants themselves?—I am scarcely able to answer that. I was not at the junior department; I was two years at the senior department. I cannot speak confidently, but I think in some cases it did seem to be so.

799. If I understand you, you object to this authority being exercised by persons who do not possess a gentlemanly education?—Yes, that is exactly my objection. If you can get persons who are gentlemen to look after the cadets, all the better; my objection is against the serjeants.

800. Mr. *Rich.*] What is the authority that these serjeants do exercise?—As I understand it, it is simply reporting.

801. They can give no punishment?—No, certainly not.

802. They are not present in the dormitories of the cadets, are they?—No, they go round and visit them.

803. Do their main duties consist in watching the cadets when they are out of bounds?—Precisely, and in bounds as well; there is always a man or two on duty in the playground.

804. Colonel *Adair.*] With regard to the studies at the junior department, you stated that you had sometimes had teachers at the military asylum in your charge for the military part of the normal instruction?—Yes.

805. And you gave them an insight into history and scientific military history, and you mentioned "Jones's Journal of Sieges"; were there any other works of that kind that you instructed them in?—Yes; I used to take them in different French works; sometimes the works of Baron Maurice, and various others.

806. Have you prepared any syllabus of the studies?—No.

807. Could you put in a general outline of what you would recommend under the circumstances?—Yes, I could with great ease.

808. Did you find any very great difficulty in inducing the attention of these young men of comparatively limited education to those studies; if the students were not admitted till the age of 16, you think you might carry the instruction at Sandhurst much farther and wider in the junior department than has at present been effected?—Yes.

809. Mr. *Rich.*] At what age do you contemplate the young men receiving their commissions?—After a year, or a year and a half, or not longer than two years.

810. Between 17 and 18?—Between 17 and 18.

811. You say that it would be impossible to grant more than 30 commissions annually from the college?—Perhaps I was wrong in saying that it was impossible, but I take what has been given; it is difficult, I should think, to grant more.

812. What difficulty do you imagine would arise?—The want of vacancies; there

Major *Addison.*

27 April 1855.

there are only a certain amount of deaths per annum in the army in a year in peace time, and consequently only a certain amount of commissions that can be given without purchase.

813. *Chairman.*] What is about the average number of commissions granted in the army in time of peace?—I believe about 100 in a year; but several must be reserved for promotion of non-commissioned officers.

814. Colonel *North.*] Do you think the amount of mathematical knowledge now required from cadets at Sandhurst, is more than is requisite for an officer merely intended for the line?—I understand that the whole amount required is only Euclid, arithmetic, trigonometry, and mensuration; that, certainly, is more than is absolutely requisite for an officer, but still it is a very low amount after all; I am speaking of the junior department.

815. Colonel *Dunne.*] You stated that you would not let a cadet go till he was 16; how long do you suppose that he should remain there before he was capable of passing for his commission?—As soon as he was capable, I would let him go.

816. How long would you propose?—I would fix a maximum of two years.

817. Do you think that in two years anybody but a boy above an ordinary capacity would be able to pass the examination?—Yes, I should say so.

818. You stated also that you would carry it further, and you said that you think the system defective at present, that they do not go sufficiently into military history, politics, and taste; how is a boy to go through all those in two years?—I brought those in as collateral subjects of the classics; take for instance the case of a boy reading Thucydides; a good deal of politics comes in with respect to the action of the little Grecian governments, all which is elicited by a good master who superintends the study; but I do not insist upon politics, and works of taste, and so forth.

819. That would be more in teaching history than applying yourself to those subjects; is it not rather military biography; what is military history apart from other history; when you see the lives of great captains, they are rather military biography?—I would include military biography, but I preferred the term military history, as it comprises the histories of campaigns and sieges; it includes also strategy and tactics.

820. Do you propose that they should learn more of strategy and tactics than they do now?—Yes.

821. Were those branches, in a former period, taught much more extensively than they are now; were there not lectures upon those subjects?—I frequently heard those lectures delivered, and there was a great want of interest in almost every person who heard them, and I should trace that want of interest to their not being real. They were all cases supposed. A certain tract of country was given, and different forces were put upon different points of this country, with plans of how they were to act, and so forth. Now, that is all hypothetical, and I do not think there is anything in that to interest the mind so much as real history.

822. Supposing you took the lectures of Jomini; would you recommend them?—Yes, I would, in preference to the present system.

823. You mentioned the "Journal of Sieges"; do you not think that the study of Colonel Jones's "Journal of Sieges" requires a previous knowledge of fortification?—At the Military Asylum I took the students first through Major Straith's introductory work on fortification; after which, I used to bring them into these accounts of actual sieges.

824. Does not that require a considerable knowledge, not only of strategy, but also of the means of supplying an army; is not Colonel Jones's book chiefly composed of the *matériel*, of the number of shots fired, and such things?—A good many points of that kind can be left out. All that is very valuable for an officer, however.

825. Are there any examinations at the college, either senior or junior, which fit a man for the Quartermaster-general's department, or the Adjutant-general's department; apart from surveying in the field, do you think the education is sufficient?—No.

826. Is there any recognised book in the English language on the subject of staff duties, except that small book of Sir George Murray's?—There is a very good work on the Commissariat, which I think every officer ought to know, by Sir Randolph Routh.

827. Is

827. Is it used in the senior department?—Not at all.

828. Do you consider that any staff officer is fit for his situation who does not know how to survey?—In the case of the adjutant-general's staff, it would seldom come into the line of their duties.

829. What are his duties on the field of battle?—He would have to take orders from one part to another, and take any duty assigned to him.

830. Has he not to place the troops on the ground?—That is principally the quartermaster-general's duty.

831. Are the definitions between those two officers very well known in our service?—I think they are practically.

832. Are you aware of any books where they are laid down, except the ordinance books?—I have read it somewhere. My impression is, that there is something of the kind in the "Aide Memoires to the Military Science," under the head "Staff."

833. Is that a recognised book?—No, a recognised book is much wanted.

834. Would you think it advisable in our service to have a peculiar corps, as the French have of the Etat Major?—That is a very difficult point on account of the promotion in such a corps. It appears to me, and I have thought a great deal of it, that the promotion in such a corps would be considerably slower than in one of our common regiments; that the officers who had so studied would not be men to leave the army, and probably there would be no purchase in the corps, and they would actually be losers by leaving a common line regiment to go to it.

835. Lord *Lovaine.*] Do not you think it possible that a great deal might be done for the general instruction of the army in staff duties by schools established in the garrison towns?—I think there might; but the difficulty would be to get at the officers. In the chief garrison towns their time is very much taken up by duties of different kinds, either with their regiments, or regimental, or district, or general courts martial. Sometimes an officer may be kept on a general court martial for a fortnight, and then there are guards, and so forth.

836. Colonel *North.*] Are you aware of the sort of school that was established by Lord Frederick FitzClarence at Portsmouth, when he was governor?—I heard of it.

837. Do you consider that it would be much better to have a school at a garrison than any other place?—There would be great difficulties even there.

838. Mr. *Rich.*] While you admit the benefit of such schools in garrisons, do you not think that the benefit would be greatly increased, if there had been previous theoretic instruction?—Yes, I am satisfied of it.

839. Colonel *Dunne.*] Would that require every staff officer to pass through the senior department at Sandhurst?—I think through there or some other place, but there should be exceptions to that rule at the discretion of the Commander-in-chief; because I believe there are several men who may never have gone to such a place, and yet they will be valuable staff officers.

840. Do you think it of any consequence where a man acquires his knowledge, so long as he has acquired it?—No.

841. Do you not think, from the opportunities that officers have with regiments, any officer may qualify himself for staff duties if he chooses to do so?—Not any officer; in many cases they may, but in many they cannot; if an officer is sent to some out station in Ireland or New Zealand, it is out of the question his learning French or German there, except he teaches himself to a certain extent; or if an officer goes on service, he may be on service for a year or two, and he cannot do anything then, possibly.

842. If he does so manage as to pass his examination, would you permit him to do so?—Yes.

843. Do you think it absolutely necessary for the well-being of our army that some examination of staff officers should be established?—I do.

844. *Chairman.*] Have you thought of any plan for such an examination?—I can furnish a plan to the Committee.

845. Lord *Lovaine.*] Would such an examination necessarily require a great amount of mathematical science?—I think not; it would require Euclid certainly, and a certain amount of trigonometry and arithmetic, and mensuration; it would not require more than that.

Major *Addison.*

27 April 1855.

846. Sir *G. Tyler.*] You stated the age of 16 as the time at which you would recommend boys to enter the College at Sandhurst?—Yes.

847. And you stated that you thought the examination should be more extended than it is at present?—Yes.

848. Do you imagine that by admitting them at that age, and in consequence of their going there better prepared than boys of 13, the year and a half which they would pass there would enable them to acquire that extended knowledge which you wish to be adopted?—I think they would come better provided with general knowledge by that means, and the knowledge they would be supplied with at Sandhurst would be the professional, with mathematics; I would carry on their mathematics, and introduce military history generally, and carry them on in the languages, and the rest would be professional.

849. Mr. *M. Milnes.*] When you stated that you thought there was a deficiency in military history, did you include the history of campaigns in the Peninsular War, or did you refer to history purely of a professional character?—Histories of campaigns and sieges generally.

850. Is there any popular work of that kind which is now used at Sandhurst?—I am not aware of any.

851. Is there any examination at all in matters of military history?—I am not aware.

852. Are you aware whether military history is a part of the examination of young men at Woolwich?—I think not; there are general histories. I may almost decidedly say that military history is no part of the examination; certainly not the histories of campaigns and sieges.

853. By the advantages to be derived from military history, would you imply a mere knowledge of the facts, or the military science which might be derived from it?—The military science which might be derived, decidedly; that is, the induction from those facts.

854. Do you think that in military affairs, any more than in the affairs of ordinary life, the same circumstances occur to enable a man to carry the experience of one siege to another, or of one action to another, in such a way as to make that study practically important?—I do not think the identical circumstances are likely to recur. For instance, our present siege at Sebastopol has a great deal of absolute novelty in it; but I believe that military history will teach the principles of war in a way that nothing else will, experience always excepted.

855. Do you think that our officers would have been more apt generally to meet the difficulties to which they are now subjected, if they had been more familiar with military history?—I have no doubt it would have been a very great improvement.

856. Is not the study of military history in a certain sense at present carried out in the engineering studies at Woolwich?—I am not aware.

857. In what do you think this military history would come in so very usefully for the advantage of the regimental officers?—I think in giving them resource. You get in military history an account of the difficulties which men have gone through, and the resource they have shown, and it leads the mind naturally to think or reflect upon those points; I think it would tell upon every part of the instruction.

858. You think therefore that there would be great indirect advantages in bending the attention of young men to those subjects, not only as regards the information they might acquire, but with respect to the general direction of their thoughts, and the interest in their future profession?—Yes, precisely.

859. Do you believe that under the French system military history is more studied than under our system?—I believe it is. I remember reading that in one of the French military schools, military history is brought in as a leading subject; I think it is the Ecole Speciale.

860. Would it not be the practice now among young men of a certain age who are destined for that profession, to interest themselves in those studies?—Not while they are kept working at plan drawing, and similar occupations which take up a great deal of their time; their leisure time must be given to their amusements. I have no doubt many do interest themselves in the study of military history; I would place it, however, as a scientific study taught in a scientific manner, with a regular inductive method of reasoning from the history by a competent professor.

861. Do you think that that scientific treatment is possible?—That is my idea; that it is quite possible.

862. Lord *Lovaine.*] Could it be carried out, except at the sacrifice of a great deal of practical work?—I do not think it would interfere with the practical work. As far as I am acquainted with the course of education at Sandhurst, a great deal of time is spent in the fortification plan-drawing and printing; and it might very profitably, perhaps, take the place of some of that.

863. *Chairman.*] You expect that the junior student will come with a fair education from a public school?—Precisely.

864. Before he leaves, he ought to be, to a certain extent, master of French?—Yes.

865. You would hardly expect a public schoolboy to come with much French?—There would be a difficulty there.

866. And German also?—Yes; there would be a difficulty in both of those.

867. He would have to get one of them up in some way or other?—Yes. I think in all those cases where there is a demand, that the thing itself follows. When it is known that, at Sandhurst, either German or French will be the great requisite, the boy at Eton will take lessons in French or German.

868. And fortification also?—No; that would be entirely taught at Sandhurst, and trigonometry also.

869. What do you say as to Euclid?—The three or four first books might be insisted upon.

870. What would you do in the case of military drawing?—That would be taught at Sandhurst.

871. General history?—There should be a certain amount of general history for the first examination, in my view.

872. Do you mean a considerable amount?—It should not be put higher than the knowledge which is usually possessed by boys of 16 at the great public schools.

873. What do you say as to geography?—That is a weak point. It is scarcely taught at public schools.

874. Arithmetic?—Arithmetic certainly should be required.

875. You think that he should be master of arithmetic before he leaves; but do you expect him to have gone very far in arithmetic before he enters?—I think, if such a case may be considered at all, the analogy of Addiscombe would be correct. Cadets go there at 16, and pass a very stiff examination on entrance. There is the very thing done there that I am now recommending for Sandhurst, and I believe they find no difficulty in carrying it out.

876. Should algebra be taught?—A certaint amount of algebra; the commencement of it.

877. If there is to be a very considerable examination, and the young man of 16 is to be far advanced in many of those things, does not it throw great difficulties in the way of sons of officers in reduced circumstanes entering Sandhurst College?—Yes, it does, I think. I quite admit that it would cease to be a charity; but I was speaking of what I considered would be better for training officers. I think the college would very much cease to be a charity, and, therefore, it is doubtful whether such a thing should be done.

878. There would be no difficulty, would there, in adding to a certain degree military history to the junior department?—I should think not.

879. Is there any reason why they should not attend to something more than they do at present?—No; only that some part of the present work would have to be given up, in consequence; and I should recommend to be given up a portion of their fortification plan-drawing, and of their military drawing, because a great portion of the cadet's time is taken up in military drawing of a very elaborate kind.

880. It has been stated that, quite towards the end of his term, there is some time which is really at the disposal of the student when he has gone through the regular course. At that time would he be able to attend to military history especially?—Yes; my remark about military history would only apply to the last year and a half of their time.

881. You would hardly follow it as a study till towards the end of the boy's education?—No.

882. You see no difficulty in introducing it into the senior department?—No, I would introduce it there as the basis of education.

883. Those officers more especially would require it?—Yes.

Major *Addison.*

27 April 1855.

884. Colonel *Adair.*] Supposing the cadets were admitted at 16, it would take from a year and a half to two years to complete the course; is not it generally the case that ensigns or cornets, obtaining commissions by purchase, enter at the age of 16 into the service?—Between 16 and 18; I should say that the average is between 17 and 18.

885. The cadets who had obtained their commissions upon examination would, to a certain extent, be in an inferior position to those who had obtained their commissions by purchase, without having passed through any course of instruction?—Yes, it would make a few months difference.

886. Would you propose that the time of study should compensate for that disadvantage?—I think that would be a difficult point to settle with the regiments; it would to a certain extent keep ensigns from their regiments who ought to join them.

887. I was referring to the case of those who have lost time as compared with others, in consequence of their having been two years at the junior department; they would be two years junior to the others who had entered, without any instruction, at the age of 16, and that would be a disadvantage, particularly in the higher commands?—Yes; I do not see any way of meeting it: it exists at present.

888. Mr. *Rich.*] Do you conceive that you could meet the difficulty which has been stated by requiring a more stiff examination from all officers who enter the army?—Yes; but they would still come at or after 16, and then, as has been said, every hour after that is an hour lost to the service; that is always supposing they could get their commissions at 16, which is not always the case.

889. If a young man at 16 had sufficient knowledge to pass as good an examination as one of those young men passed at 18, the fact of his having acquired that knowledge so much earlier might be a justification of his getting his commission earlier?—Yes, I should think, in the case of a young man who had obtained his commission without going to Sandhurst, there might be some certificate of his qualifications, and he might be allowed to go into the army at once; only, at the same time, I do not see how it is possible to give him the whole of the instruction.

890. Are you not prepared to advocate a more stiff examination for general commissions in the army?—I should doubt that.

891. If you do not, you would put the cadets, who completed their education up to 18, at a disadvantage with the rest of the army?—Yes, in that respect.

892. Mr. *Hardinge.*] With regard to Addiscombe, a cadet who goes to Addiscombe at 16 is under the same disadvantage as compared with the cadet who gets his appointment direct from the Company?—Exactly.

893. Mr. *Rich.*] With regard to the admissions at Addiscombe, you are aware that a young man admitted there is almost sure of obtaining his commission, provided his conduct is tolerably good?—Yes, I believe so; I have generally heard so.

894. You illustrated your statement of getting boys to go to the Military College with a certain amount of knowledge, by saying that Addiscombe now gets abundance of candidates fully qualified to enter at 16?—Yes, and with a rather stiff examination.

895. Are you aware that Addiscombe holds forth the inducement of almost a certainty of acquiring a commission in the Indian army?—I was not aware that it was an absolute certainty.

896. In the statement that you made, you said you would admit young men into the army, after having passed a year and a half or two years at Sandhurst; and you stated that the establishment amounted at present to nearly 200, but that there could not be more than 30 commissions given away; now by thus shortening the duration of the course, would not therefore a great many claimants be disappointed?—Yes; but, on the other hand, there would be a much greater stimulus to exertion, and you would obtain very superior men.

897. Would there be sufficient attraction to young men to go to Sandhurst to devote a year and a half of their time to professional studies, when the chances of obtaining a commission were so small?—They might not have any other way of entering the army; I think it would be a great stimulus, and the men who did get commissions from Sandhurst would be very superior men.

898. It would be a stimulus to a certain extent; but would it be sufficient to encourage people to enter?—The inducement is the price of a commission, 450*l.*

899. But

Major *Addison*.

27 April 1855.

899. But there would be a chance of five to one against getting a commission, and that would, to a certain degree, and at a very precious time of life, throw the young men out from employment?—I think it is questionable whether it would throw them out for other employments. There would be no more expense there than at any other public school, and a young man at 16 must be educated somewhere.

900. Do you think the course of instruction that you recommend, which is admirable as regards the army, would be such as to fit a young man for other vocations of life?—It would not be at all against him.

901. In the church or law, or medicine?—No; I should say not.

902. Mr. *Hardinge*.] It would be a great assistance to civil engineering, would not it?—It would be a great assistance to civil engineering.

903. Mr. *Rich*.] Are you aware that there are a great many more candidates for employment in civil engineering at the present time than are required by the profession?—Yes, I understand so.

904. Do you not think it possible that this admission at the age of 16 might not work with two optional examinations; one for boys of 16 years of age, who would be in an advanced stage, and the other for boys of 13 or 14 years of age, in a minor degree of advancement?—I think in the same institution this would cause a great deal of difficulty; for where you have professors, each takes his regular classes, and the professors of the higher classes get their cadets forwarded up to them from the junior, ready prepared with a certain amount of knowledge; and you must keep them in classes, as you have to teach a great many; and the professors of the higher classes have the cadets forwarded up to them with a certain average amount of training each. Now, according to this other plan of bringing in cadets at 16, they would come with all kinds of education; and I should say that it would be very hard to classify them with the cadets who had been educated at Sandhurst by the junior professors, and I think that much of the advantage of the early training at the college would be lost by that means. At the same time, I am not prepared to say that it could not be done.

905. With regard to what you stated respecting instruction in military history, did you mainly mean that you would illustrate your teaching upon military matters and science by real examples rather than by abstract principles?—I mean exactly what you say; but I also mean the histories of campaigns as actual subjects of study.

906. Mr. *Hardinge*.] With regard to the examination on entrance at the senior department, have you any suggestions to make to the Committee; should you consider it desirable that it should be rendered more severe than it is at present?—Yes; I would not class it too high, but I would have the work very correctly done. I believe there always has been a great waste of time in the senior department in attempting to cultivate untaught minds. The end should be had in view, which is to form men of high class for the staff; and the chief effort from the very starting point should be to develope their talent as well as to cultivate their industry. At present, the effort at Sandhurst appears to be to cultivate industry; and I think that is rather more looked to than the developing of talent. In the examinations there are scarcely any original problems given; that is, problems which the cadets have never seen before. They are examined in certain books, such as Laplace and Poisson.

907. Colonel *Adair*.] What is the course of examination in the senior department at present?—Those who take a first-class certificate are examined at the end of every half-year in the work that they have done; but the examination is in the work that they have done from the commencement, and not, as in the junior department, step by step; that examination for a first-class candidate comprises Euclid, arithmetic, algebra, trigonometry, including mensuration, conic sections, mechanics, the differential and integral calculus, practical astronomy, and either a portion of "Laplace's Mécanique Céleste," or "Poisson's Mechanics."

908. Mr. *Hardinge*.] Will you state what is required for an officer to take a common certificate?—I think the same course is required as that which I have just mentioned, as far as conic sections and a little practical mechanics; that is, as well as I can remember, and since my time I understand French or German have been introduced.

Major *Addison.*

27 April 1855.

909. With regard to military surveying, have you any opinion to offer to the Committee upon that point?—I think the great thing for a staff officer in military surveying is to learn rapid sketching; he should be able to make a rapid sketch on horseback. I can give an instance of that; General Bainbrigge, who recently commanded in Ceylon, was sent some time before the battle of Salamanca to make a survey of three or four square miles; a good extent of country. He surveyed this country, galloping from point to point, stopping and either dismounting or not, and taking shots, as they are called, on his paper by the eye alone, without any instruments, and I think I remember in two hours and a half he had completed his survey. It was all extremely rough, but sufficiently clear for the purpose; he brought it to Lord Wellington, explained to him the different points, and the sketch was approved. I should mention that during some part of the time when he was making the sketch, he was under the fire of the French skirmishers; the position was not actually taken up, but it was very near the spot where the battle of Salamanca was shortly afterwards fought.

910. Colonel *Dunne.*] Is not a sketch of that kind, on horseback, most rapidly done?—Yes; only it requires a great deal of practice. My idea in mentioning that is, that while I was at the senior department, the main object was to make very elaborate surveys.

911. Was not there a trial sketch that you were obliged to do in two hours?—Yes; but only one. I would have 20 or 30.

912. Mr. *Hardinge.*] Is not much time lost in the high finish of those military plans?—Yes.

913. Colonel *North.*] Was not the sketch that was made in two hours the result of a great deal of slow practice before?—Yes; but I am speaking of what should be the end in view.

914. *Chairman.*] Will you continue the suggestions which you were offering to the Committee, with regard to the examination on entrance to the senior department?—I think I stated that I would make the examination a good deal more severe; for the object would be to get well trained minds at starting, and not to waste the time that is often, unfortunately, now wasted in endeavouring to cultivate untaught minds. The difficulty is, that an officer would come, say at three or four and twenty; he has been long unused to work, and the difficulty is enormous of giving his mind the first start, and therefore I would have a good stiff examination on entrance. I should not be desirous of making it very extensive, but it should be very strict, as far as it goes.

915. Mr. *M. Milnes.*] Do not you think, that unless you held out much greater inducements than you have now, if you required that stiff examination, the number of officers who subjected themselves to it would be extremely small?—I think there should be a general rule established, that officers for the staff should be principally selected from Sandhurst; but it should be merely established as a general rule, subject to exceptions; because there may be many very superior men who would never have an opportunity of going to a place of this kind.

916. Sir *G. Tyler.*] Do you not think that, by adopting that principle, you would confine the senior department to those who had been educated in the junior department in a great measure?—No; I think as many would come to the senior department, who had been educated at public schools, as those educated at the junior department. The only thing that I would insist upon in the preliminary examination should be a general education.

917. Still you would conceive that those who were educated and gained their commission at Sandhurst, would naturally be more able to pass an examination of that kind than those who were educated elsewhere?—I do not think the difference would be great. At Sandhurst, at present, at the senior department, the junior department men have only a year and a half to go through their course. Those who have not been in the junior department have two years to go through the course, and a certain part of the course is left out; for instance, the fortification plan-drawing. Still the disadvantage is with those who have been educated at the junior department, and that would show that there is less than half a year's difference.

918. Still if such was the improved state of examination which you propose before entering the senior department, would it not be a great stimulus to those who had been educated at the junior department to carry on their education after

after they left that department?—Undoubtedly, and if they did so, it would be all the better.

919. Colonel *North.*] Would it be well to confine the admission of officers to a certain age, say 25?—I think it should be rather confined to a certain rank, than a certain age.

920. After all, it is for staff employment; but would there not be a great difficulty in bringing a man of 45 to the senior department?—Yes, it is next to impossible.

921. Would it not be better to confine the admission to young men?—I am scarcely prepared to say what limit I would assign; there might be some limit, say 30; but it is very hard to place any limit, because an officer may be sent out for 10 years to India; now it is hard upon him, when he comes home, that he should not be allowed to work, and qualify himself for a staff appointment, if he pleases; I should be afraid to assign a limit.

922. Lord *Lovaine.*] Would not you, practically, by the adoption of a rule which confined the principal appointments on the staff to those only who have studied at Sandhurst, exclude 9-10ths of the army whose merits have been proved on the field?—It might be brought in as a general rule, open to exceptions; and proved conduct in the field would be the first exception.

923. Colonel *North.*] Do you mean proved capacity?—Yes, I mean proved conduct; not gallantry alone.

924. Mr. *Hardinge.*] You would have a certain amount of discretionary power in the military authorities?—Yes, precisely.

925. Lord *Lovaine.*] In the list of studies which you have stated to the Committee through which the officers in the senior department ought to pass, is not there a much greater amount of mathematics and science than is practically ever required in the field?—Certainly. At the same time, it is hard to assign a limit there; directly, the effect of mathematics is nil; one never applies a proposition of Euclid; but they give ballast to the mind; and then, when an ardent mind has got to a certain extent in any subject, and has mastered the first points, such as Euclid and trigonometry, it would be very dissatisfied with the amount of knowledge that it has acquired when there is such a vast deal more to be gained; I think, therefore, the only limit to be assigned to the extent of mathematical study is, that it is not to interfere with the professional studies.

926. Do not you think there should be a rule, as regards staff appointments, for the adjutant and quartermaster-general's office at least, that every officer shoul be obliged to serve a certain time with every branch of the service?—Yes; I am quite of that opinion, that he should be attached.

927. Mr. *Hardinge.*] Are you in favour of attaching those officers, after their theoretical course, to different regiments, and different branches of the service?—I am. I think it would be unfair to make an officer enter a cavalry regiment, on account of the expense; they should be attached for a certain time.

928. Would there be any means of imparting professional education on the different departments of the army?—I think so. At the senior department I think it would be quite possible to teach the principles of the commissariat, land transport; the different points to be attended to in embarkations and disembarkations, and everything of that kind: a host of them might be mentioned. It would be quite possible to do it, but at the same time we should require books for the purpose; the demand, however, would no doubt soon create a supply: works would be compiled on the subject, as soon as it was known that they were necessary.

929. Colonel *North.*] Do you think it would be advantageous for the senior department to be attached to the camp at Aldershott, during the time when manœuvring is going on?—I think it would be extremely useful, and then they might be attached to the cavalry, and the artillery, or to the sappers, in order to learn pontooning, and throwing up field works.

930. Colonel *Adair.*] Books would scarcely be sufficient for the purpose of giving the miscellaneous information that you speak of, would they?—No.

931. Would it therefore be advisable to attach to the senior department officers who had seen those things with their own eyes?—Yes, and who also could instruct.

932. Those appointments might be the means of rewarding officers who had distinguished themselves?—Yes.

933. With regard to the higher class of duty, is there any provision at the

Major *Addison.*

27 April 1855.

senior department for the instruction of staff officers in the relative proportions which the different parts of an army should bear to each other, and for giving an insight into the operations of war on a large scale?—I should say that might be done very well. I am afraid not much of that is done at present; it is partially attempted.

934. Mr. *Hardinge.*] With regard to foreign languages, as taught in the senior department, can you offer any suggestions as to any change in that course of study?—I would recommend that every officer should be obliged to learn French, certainly, and that he ought to be able to converse in French with tolerable ease, before he is allowed to undertake a staff employment in these times.

935. Lord *Lovaine.*] Would you give the Oriental languages no place?—I am not prepared to do that; it might be a subject of further consideration; of course they are of no value except to officers going to India.

936. Mr. *Hardinge.*] You are probably aware that those languages could be much better learnt in India than in this country?—Yes.

937. *Chairman.*] Would you make French a *sine quâ non* before entering the senior department?—No.

938. Would you recommend that French should be learnt there?—It would be very useful to an officer to have learnt it before, but I think you must provide the means of teaching it there.

939. You have men to deal with in the senior department; and is it not better that they should come ready furnished with French than that their time should be dedicated to learning French at that college?—I think it would be very much better, but it would be impossible in all cases.

940. Mr. *Hardinge.*] But it would be very difficult for an officer of a certain age to acquire the sort of proficiency in French to which you allude in a year or a year and a half?—It is hardly possible to do so; it would be very difficult.

941. Mr. *Rich.*] Would you not insist upon an elementary knowledge of French before admission to the college?—I think you might insist upon an elementary knowledge of French before admission to the college. That could be done; a man could teach himself that. I am merely contemplating the case that, so long as an officer is quartered in this country he can always learn French, but send an officer abroad, almost anywhere, and he would have no chance except he taught himself.

942. Without that previous elementary knowledge, the French acquired in one year's study at the senior department would afford small hope of an officer conversing in French?—Yes, I think so; with sufficient ease to make known his wants, and to understand what a Frenchman says: he could hardly get further than this point.

943. Do you think he could do that consistently with the prosecution of all his other studies?—It would be very difficult, I grant; at the same time, it should be held out as a very important point.

944. Does not the acquirement of a considerable knowledge of French fall in with your idea that there should be a considerable degree of instruction in the case of officers who come to take advantage of the education of the senior department to qualify themselves for important stations in the army?—Certainly.

945. Colonel *Dunne.*] Are not all the books in mathematics, almost, and certainly on strategy, in French?—Yes, mostly.

946. Mr. *Hardinge.*] Is not every officer who gets his commission required to know some small amount of French?—No; he must be acquainted with either Latin, French, or German.

947. Mr. *Rich.*] You have spoken of a severe preliminary examination; do you not think it would be expedient that at the end of three months, or any fixed time, there should be a second examination, which, if an officer could not pass he should at once be removed?—Yes; there is a similar thing to that at the senior department now; that is in force.

948. Is it enforced, or only *in terrorem*?—It is both.

949. Is it strictly enforced?—I believe very fairly; they are not very hard; I would have everything very strict upon that point; I would keep the end in view, that you wish not to confer any particular benefit upon the individual, but to improve the service.

950. Would

950. Would you recommend a more strict preliminary examination, and also a more strict enforcement upon the subject of what may be called the probationary examination?—Precisely.

951. *Chairman.*] What examination would you require for first-class certificates?—I think I mentioned that I had drawn out a plan some time ago, but I am not prepared with it at this moment. I will furnish it to the Committee.

952. Colonel *North.*] You think that a great deal of time is lost in what is called learning to print, and over-neatness in the plan-drawing?—Yes.

953. In the field fortifications, for instance, if the lines of firing are blotted, they are obliged to be done over again?—Yes.

954. *Chairman.* What addition to the staff of professors in the senior department would you think necessary in order to carry out your plan?—There would have to be a professor of mathematics and one of fortification. At present Mr. Narrien takes the instruction both in mathematics and fortification. I doubt whether that will ever exist again. Probably we shall never get a man to do it. There would have to be two professors there. Then the professors of military drawing and of surveying, perhaps, might be the same person, as at present. There would have to be a professor of French; and then with regard to the study of military history, I am not prepared to state whether the professor of fortification might not fairly take that branch; it depends very much upon the person employed.

955. Colonel *North.*] Would that instruction be given by lectures, which both the senior and junior departments could attend?—No, I do not think you could amalgamate the two in any way.

956. Colonel *Adair.*] Should not the professor of French be a French officer?—Yes, if you could get a man of that sort.

957. Is it not very possible for a native of France not to be able to translate military terms; such as are to be found in "Burns's Dictionary," for example?—Probably it is so.

958. Sir *G. Tyler.*] Do not you imagine that if those increased advantages which you have mentioned were to be derived from a senior department, rather a larger amount than 30*l.* should be paid?—Perhaps it might be increased to 40*l.* But I think it is such an object to the country to get a highly educated staff, that 10,000*l.* or 15,000*l.* would not be at all misspent; I consider that it would repay itself in war over and over again.

959. Mr. *Hardinge.*] What amount of first-class certificates are taken upon an average annually?—I made a calculation of that a short time ago, and I found that from 1842 to 1851 inclusive, there were eight first-class certificates given; that is, for those 10 years.

960. *Chairman.*] Have those officers been employed since?—A great many have, to my knowledge. I do not know that all of them have.

961. Mr. *Hardinge.*] Are you aware how many officers who have taken first-class certificates have now staff appointments in the Crimea?—I think there are four.

962. Colonel *Dunne.*] Are you aware that in the last 20 years there have been only 20 men employed on the staff who have been in the senior department?—I have seen a statement to that effect.

963. Mr. *Hardinge.*] To what do you attribute your own appointment to the staff?—Entirely to the first-class certificate which I obtained at Sandhurst.

964. Mr. *M. Milnes.*] Have you any objection to state your reasons for thinking so?—After I had been at Sandhurst, I rejoined my own regiment, which was the 70th Regiment, in Ireland, and was there for a year in 1848. When the disturbances broke out, I was recommended by Sir George Scovell to Lord Hardinge for his extra aide-de-camp; I was placed on his staff, and served on it throughout that period. I rejoined my regiment after that, and in the spring of 1849, the adjutancy and secretaryship of the Military Asylum at Chelsea became vacant, and I was recommended again by Sir George Scovell, the governor, for that appointment, which I obtained. I was there for five and a half years, and in December last, the office of Deputy-assistant Adjutant-general at the Horse Guards was about to become vacant; I was appointed first of all Extra Deputy-assistant, and then, on Major Pack's retiring, I was appointed Deputy-assistant. I was appointed to Lord Hardinge's staff without knowing him, and without having used any interest whatever, and I trace it entirely to

Major *Addison.*

27 April 1855.

the recommendation of the Governor, as governor, and similarly with respect to the appointment at Chelsea.

965. Mr. *Rich.*] Had you any previous knowledge of Sir George Scovell? —No.

966. Colonel *Adair.*] With respect to the appliances for study at Sandhurst, in what state is the principal library; what is the number of volumes?—I do not know what the number of volumes is, but it is a very good library indeed of military works of all kinds.

967. What is the state of the model department?—I am only speaking of the year 1846 or 1847; there were then very good models indeed in the place; we were not very much instructed from the models, but we were a little. I should say that that mode of instruction might be very much increased; I am quite in favour of that system of instruction.

968. With regard to astronomical apparatus, there is no great profusion of that, is there?—No, it is rather in a rude way; a certain attempt has been made. The officers of the senior department are taught to make observations to find the hour of the day, and the latitude of the place, and so forth.

969. Colonel *Dunne.*] Are they taught also lunar observations and measuring lines?—Yes.

970. Colonel *Adair.*] It has been stated to the Committee that there is no laboratory; no means of chemical instruction?—I think not at present.

971. Is there any means of giving instruction in geological science?—No; I think geological science certainly ought to be a study for officers, the contouring of ground so much depends upon it; it is quite true that a person from hunting may obtain a first-rate knowledge of a country, but it is just as well that he should know how it is that those hills which he sees are formed, and he would be able to see pretty well where fords are likely to be over rivers. A knowledge of geology is extremely useful to an officer.

972. Colonel *Dunne.*] Is not the formation of certain grounds of that nature, that if you see one side of a hill you can tell what is on the other?—Yes, to a considerable degree.

973. Mr. *Rich.*] Do you think Sandhurst is altogether the best situation for the senior department?—It used to be at Farnham, and I do not see that it is at all necessary to keep the senior department where the junior department is; I should think they are just as well kept separate.

974. Colonel Prosser said that he thought Farnham would be a more desirable locality than Sandhurst, in consequence of the formation of the camp at Aldershott; do you concur in that?—Yes; but I think in that case they ought to be put under a rather strict disciplinarian.

975. Did you find when you were there, that the presence of the officers studying at the senior department, at all interfered with the discipline of the cadets?—I should say not; the senior department does not really belong to the place; it is only an offshoot, and it is always better to keep each institution perfect in itself, and not to put two institutions into one.

976. Do you think Woolwich better situated than Sandhurst for the purpose of affording a military education?—Woolwich has the advantage of experiments in artillery, which is certainly very great. When I said that the officers should be attached to the cavalry and the artillery, and sometimes to the engineers, I might have added it would be very advantageous to send them to Woolwich.

977. Colonel *Adair.*] There is no practice in artillery at Sandhurst, is there? —No, except throwing hand-grenades and rolling shells over parapets; that was done at Sandhurst, in my time at least.

Martis, 1° *die Maii*, 1855.

MEMBERS PRESENT.

Sir Francis Baring.	Lord Lovaine.
Sir George Tyler.	Colonel North.
Colonel Adair.	Colonel Dunne.
Mr. Rich.	Viscount Monck.
Mr. Monckton Milnes.	Mr. Hardinge.

THE RIGHT HON. SIR FRANCIS BARING, BART., IN THE CHAIR.

Lieutenant-Colonel *Adams*, called in; and Examined.

Lieut.-Col. *Adams*.

1 May 1855.

978. *Chairman.*] WHAT situation do you hold in the college?—The Professor of Military Science.

979. How long have you held that situation?—Twelve years.

980. Were you educated at the college?—I was educated at the junior, and also at the senior department.

981. What certificate did you obtain?—The higher certificate at the senior department and also at the junior department.

982. Have you been 12 years in the college?—Yes; in my present capacity.

983. Did you fill any other situation in the college before?—No; I have been 34 years in the service, 22 of which I have been on continuous full pay military service, and for 17 years of the first 22 I have been above the rank of captain.

984. Colonel *Adair.*] In what year did you pass in the junior department?—In the year 1821, and in consequence I was placed above the heads of the two previous classes by Sir George Murray, in consequence of my more than usually advanced attainments.

985. *Chairman.*] What active service have you seen?—I have had no war service whatever. I have been on the Mediterranean station. I have had an opportunity, consequently, of making myself very intimately acquainted with Prussian and French officers.

986. Have you seen the foreign schools?—Yes, in France; but I have known officers both in the royal guard of Prussia and in the engineering service. I have also known officers in the Austrian service and the French service, both in the line and in the engineer department.

987. Do you think that the age of admission is a proper age or not?—I think it is too young. I think it ought to be 14. I find a great number of them are mere children. They have no steadiness, and they are not kept in order as they would be at a school; they are treated as men; they make no progress, but idle away their time.

988. How long do you calculate upon their remaining at the college?—A person of average talent would take three years, but the generality would require nearer four years, because they generally do not work very much at the beginning.

989. Do you consider that the examination is a proper one, or might improvements be made in it?—I think very considerable improvements might be made, both with reference to the entrance examination, and also in the course of instruction which follows.

990. Will you state, first, what improvements should be made in the entrance examination?—The entrance examination, if adhered strictly to, I think would be well enough; but it is only in name; it is relaxed very injudiciously, I think; out of kindness, no doubt. It is exacted that a boy coming there shall be able to print in italics. We find that when they come, after being there a year, they have not the slightest idea of it; consequently that throws them back, and gives the master a vast deal of trouble, and disgusts very often the pupil, because he finds he cannot do anything. They are very often persons with defects of speech, and you can scarcely listen to them without feeling that the regulation is not adhered to in that respect: they are of course perfectly unfit for officers; some of

Lieut.-Col. *Adams.*

1 May 1855.

of them are short-sighted and deaf. I speak this from my own knowledge. I have heard two or three persons who stammer so much that it is quite painful to hear them; and on one occasion, the late Duke of Cambridge, who was a very patient man, was present at the examination, and could not help showing his impatience at the defect of speech of one under examination.

991. Did they obtain commissions afterwards?—Yes.

992. Sir *G. Tyler.*] Is there no examination of candidates by a surgeon?—Yes; the regulations are that they shall undergo a physical examination; and if they have any defects, they ought not to be admitted.

993. Are they not admitted upon the surgeon's report?—They ought to be; a surgeon examines them.

994. If he reports any defects, are they still admitted?—I do not know how that is.

995. *Chairman.*] Is it that you suppose the report has been incorrect, and they have been received upon an incorrect report, or that the report having stated those defects, they were still, out of kindness, received?—It may be one or the other, or both; it may be from kindness; I am sure I believe it has been done from that cause. It has not been with respect to people of influence; it has been generally people without any influence. The last case that occurred was so, at all events. What has come under my observation is the stammering.

996. Lord *Lovaine.*] Is not that curable?—With very great care and attention, the individual may cure himself, but it requires very great control: they are generally nervous people.

997. Sir *G. Tyler.*] Have you found these cadets stammer afterwards, or was it owing to nervousness during the time of their examination?—They had been, perhaps, for 12 months under me, and still continued so; I am the head of the military science, therefore they come to me only before they go away generally.

998. *Chairman.*] Are there any other points you would wish to mention?—I think they ought to exact a higher standard of French on coming in than they do, and there ought to be no option with regard to anything. There are certain studies which are best for a military man, and they ought to be rigidly adhered to. They should be set as low as possible, but no relaxation should be permitted; they ought to be fixed judiciously at the lowest range at which you can fix them, but that should be rigidly adhered to.

999. With regard to languages; is there not either a certain quantity of Latin, a certain quantity of French, or a certain quantity of German required, and is not either sufficient on the entrance examination?—Yes, I should say, myself, that the Latin is not of the slightest use, because almost every gentleman's son learns Latin as a matter of course; therefore it might be very safely dispensed with, as it is of no absolute utility whatever. I can speak in this manner, because I was classically educated, and therefore I have no prejudice on the subject. I conceive that the Latin is perfectly and entirely useless; it is a loss of time for a military man to study it. All the schools teach it; consequently it is perfectly useless to examine in Latin. But they should examine in something likely not to be known, but which is necessary: I should suggest that there should be a minimum of French and mathematics, with the detail of printing, writing, and spelling one's own language.

1000. From your experience, would say that those boys who come from schools, and are examined on entrance, in Latin, are behind the others in the course of their studies?—Yes, I should think they were, because they have devoted so much time to the classics, to the exclusion of things which are most necessary. I have been at the public schools, and I found that the entire attention of the boys was bestowed upon Latin or Greek; consequently no time is given to anything else whatever.

1001. Do those boys who come from the public schools, when they come to the college, hold their own in that course of study, or are they behind the other boys?—I never inquire. They come under me. I know nothing of them, who they are or where they come from.

1002. You know whether they have taken up Latin or not, do you not?—No.

1003. Are you present at the original examination?—No; I have nothing to do with it.

1004. What are the points upon which you think the entrance examination should

should proceed?—I think merely upon arithmetic, on mathematics and French, and dictation in English; and the applicants should be able to read and spell correctly. Lieut.-Col. *Adam* 1 May 1855.

1005. Would you include geography?—No, I would not.

1006. What do you say as to history?—No, I do not think it necessary for the candidates; I think if they know the other things well, and rigidly adhere to these things, the writing intelligibly and gramatically, it would be sufficient. They should not be admitted unless they knew those three things.

1007. Have you anything else to suggest with regard to the entrance examination?—I think that more attention should be paid with regard to excluding people with physical defects, and to their knowledge of printing.

1008. And you think that the scale should be strictly adhered to?—Yes; there should be no relaxation from kindness; I think that is mistaken kindness.

1009. Colonel *North.*] What facilities have you had of forming an opinion with regard to the working of the course pursued at the college?—Having been educated at the junior department and the senior department, and having devoted a great deal of attention to the education of foreign officers; and having also paid a great deal of attention to the education of officers belonging to the different reginents who have been educated at public schools, as contrasted with those educated at the Military College, I have formed my opinion upon those grounds.

1010. *Chairman.*] Do you think from your experience of officers generally that those who have been educated at the public schools are inferior to those who have been educated at the college?—I think at the beginning, decidedly so; I have no hesitation in saying that they are most inferior in aptitude; perhaps in all respects as civilians they may be superior, but I think for aptitude as officers I always found that they had a great deal more difficulty to get into the way of performing what was required of them; they considered it a sort of inferior work.

1011. At what age are they admitted at foreign schools?—Not younger than 16; at St. Cyr to 25, but they allow soldiers to come to the school; and it is only for two years at either the Polytechnic or St. Cyr.

1012. Colonel *North.*] In what does the system of education at Sandhurst differ from Harrow, or Eton, or other public schools?—It is much more comprehensive; it is not confined to one or two certain things; you have almost every branch of education suitable to a gentleman in any situation of life; whereas in the public schools it is confined to one or two things; to antiquity more than modern information.

1013. Besides classics?—Yes.

1014. In what do the professors and masters of Sandhurst differ from those at Harrow, and Eton, and Winchester?—They all act as tutors; they teach tutorially, not professorily; not by lecture, but individually and in classes; consequently it is far more economical for the parents and those who send them here. They teach a great deal more, and all their expenses are included in one sum; whereas in the public schools you scarcely know the total expenses, but it is very expensive; whereas at Sandhurst you know the exact total of your expenses, and you learn more in the same time.

1015. At Sandhurst they do not prepare their lessons by private tutors, as they do at Eton, and then undergo an examination by public tutors?—No; everything is done in the hall, under the personal view of the masters.

1016. Is the Sandhurst system adopted at the French colleges?—I should rather think Woolwich is according to the public school system. They learn their lessons out of the study, and then repeat them to the masters. I am persuaded that the foreign schools are not on our plan at all.

1017. At Eton and Harrow a boy remains as long as his parent chooses him to remain; at Sandhurst is there a fixed time?—Yes, four years, or to 18 years old; if he enters at 15, then he will have three years as the limit; if at 14, then four years is the limit; but in either case he must not remain after he is 18.

1018. In how many different branches of study must they be examined to entitle them at the end of their four years to pass their examination for commissions?—Six branches; three are imperative, and three they choose, which I think is a bad plan. Euclid and trigonometry are imperative, and very properly so; and one division of fortification is imperative.

Lieut.-Col. *Adams.*

1 May 1855.

1019. To what point of fortification do you refer?—Permanent and field fortification. The attack is an extra branch, but I consider that fortification cannot be learned properly unless you learn the art of attack; consequently, I consider that a cadet going away, having finished his course at field fortification, has lost that which is very important. He cannot learn fortification fully unless he learns how to attack.

1020. Colonel *Adair.*] With reference to these examinations, on referring to the syllabus of the examination held in 1829, I find that cadets were examined at the choice of the Commissioners in the construction of field works. Then there was a book upon those works, with regard to the different saps; and, in fact, much of what you refer to in the general system of attack. Is that system of examination still continued?—Yes; for those who learn the art of attack; for the higher class in fortification; but for the junior class there is nothing relating to sapping and mining at all; they do not learn that; consequently they lose an important part.

1021. A knowledge of sap and attack is one of the essential points of the commission, is not it?—For the senior class, in fortification; not in the junior.

1022. For the senior commission?—No; unless they go through the senior step of fortification, they can get their commission without knowing anything of sapping or mining.

1023. Still it is taught in the junior department?—Yes, it is taught in the junior department; there is nothing taught at Woolwich that is not taught at Sandhurst in that respect.

1024. Colonel *North.*] Are the cadets obliged to go through a higher class of mathematics?—Yes, much too high, and to the detriment of their knowledge of the inferior branch of mathematics. Very often a cadet is going up, perhaps in mechanics, and he is not able to find the centre of a circle, or raise a perpendicular, which is necessary in the art of fortification; he has been pushed on merely as a name, and he knows nothing about the junior work.

1025. You think that it should be confined merely to the practical part of geometry, mensuration, and so on?—Yes, as far as trigonometry. Euclid and plane trigonometry and an easy course of mensuration are all that are necessary for any infantry officer, and indeed for most of the other officers.

1026. How many cadets are there, on the average, in each class?—It varies very much; but there are very frequently as many as 24 or 25 or 26, which, in the way we instruct, is an absurdity; because, if you divide two hours into 25 portions, it stands to reason that but little knowledge can be acquired in such a short space of time.

1027. And more than one professor can pay attention to?—He could do it if he taught as at the public schools; but when he has to teach every one in two hours, it is impossible he can do it.

1028. How often do they attend for French?—Not more usually than three times a week; a part of the time for study is consumed in riding.

1029. *Chairman.*] What is the practice when they go before the professors?—In languages, probably, the junior professor in French has probably 24 or 25 students coming in altogether at all stages, some knowing nothing at all of French, some merely knowing a few words and a little of the grammar, others probably knowing it pretty well; they are all in different degrees; consequently he must select those who are more conversant with the language, and devote more attention to them, because he cannot give sufficient attention to those individually who know nothing at all.

1030. Sir *G. Tyler.*] At what age are the cadets admitted?—At present 13 is the age; I recommend that they should not be younger than 14.

1031. And you think that their previous education should lead them necessarily to the examination which they are to go through on admission?—Quite so.

1032. Your opinion is, that Latin is not at all necessary?—I think not.

1033. Are they now always examined in Latin?—They are not always examined in Latin, unless they prefer it to French or German.

1034. Are their studies in Latin continued?—No, very rarely, unless they wish it. As one of the subjects forming the six things for obtaining a commission may be Latin, consequently an individual knowing Latin well naturally takes that as one of the six steps.

1035. Suppose

1035. Suppose a boy does understand some portion of Latin, do you think it advisable that that knowledge should be kept up during his residence at the college?—I think not for a soldier; it is taking up his time from things which are more important. It is not the same as at Harrow or the other public schools.

1036. Do not you imagine that for any profession Latin is in a measure useful to the person who has been enabled to acquire some knowledge of it?—I am of opinion, from my experience, that it is not of the slightest use whatever, In fact, so far I differ from the common opinion that it is useful in acquiring other languages. It is not the root of German; and even for French and Italian it is not of much use excepting for reading. A person who knows Latin could read an Italian book better than one who does not know Latin, but he would not speak it so quickly; it would be a bar to him, in fact. He would be apt to merge, as it were, words; he would get a Latin word and give it an Italian termination; whereas a person who did not know anything about Latin would pick up Italian by ear.

1037. Do you imagine that a boy's time is taken up more than is necessary in learning the art of printing?—He does not learn the art of printing at the college, but he is required in all military plans to make designations, and if it is done in writing it is such a scrawl that no general officer would probably be able to distinguish it; therefore, a certain degree of printing ought to be insisted upon, I think, at the entrance examination.

1038. Do you imagine that an officer in the field, making a plan, would print it before he laid it before the general officer?—If it was a plan of a permanent fortification he would certainly print it. If it was a common rough sketch he would write it. If it was a good plan, I think he would print the designations certainly.

1039. You do not imagine that the portion of the boy's time that is occupied in learning that art is at all a loss to him?—I think not; I think he would learn it in a very short time.

1040. Colonel *Dunne.*] Is not it necessary to print, at least in a common way, upon a plan; they do not go much beyond that, do they?—No; they merely make something legible; you find hand-writing so illegible, that it is perfectly a scrawl.

1041. There is an absolute necessity that they should have a sufficient knowledge of printing for that purpose?—Yes.

1042. Colonel *Adair.*] What is the system adopted at Sandhurst with regard to marking the ground, as to its inequalities?—They do it with vertical lines; but when they go out to survey, they sketch, like the French, the horizontal lines with a pencil. The finished plans of the college are done to a vertical line; but at the end of their career they learn the horizontal line.

1043. Is any instruction given in contouring?—I believe not in the junior department.

1044. With respect to Latin, "De Officiis" is not read at Sandhurst, is it?—No; Livy, Cæsar's Commentaries, and Virgil are the only books; and occasionally they read Horace. The chaplain used occasionally to ask any person who could to read an ode of Horace, to do so.

1045. Mr. *M. Milnes.*] To what amount of competence in Latin do the students generally attain?—If they come very badly prepared, I do not think they would make any progress at all.

1046. Do the greater part of them know Latin when they come?—Yes, I think by far the greater part do know Latin better than anything else.

1047. Are the majority generally able, when they leave Sandhurst College, to read Cæsar and Livy with tolerable facility?—I should think not, because there is a very small proportion who stick to Latin. A small proportion choose Latin as one of the points to go up in.

1048. Unless they choose Latin, it is not in any degree forced upon them?—Not at all. As a cadet I entered on a Latin examination, and I was so far competent that I could translate Latin into French; but I did not think it necessary to take that as one of my steps nevertheless; I preferred taking up French.

1049. What proportion of the students take up Latin?—I should say that there are not probably in a class, upon the average, above eight or ten cadets in the half year who take up Latin, and there are 180 cadets altogether.

1050. So that, in fact, the study of Latin is considered very unimportant?—Yes;

Lieut.-Col. *Adams.*

1 May 1855.

Yes; and I consider that it is allowed to go on merely that those who have been exclusively educated at the public schools might not be thrown out; as the fashionable education of this country is classical, it was considered probably that it would be unfair to go counter to the fashion of the country in a military college.

1051. You do not profess, in any great degree, to encourage the classical education of the students?—No.

1052. Colonel *North.*] With regard to the number of professors; do you know the proportion that Woolwich bears to Sandhurst in that respect?—At the military college there are, for 180 cadets, and 15 in the senior department, only 18 instructors; at Woolwich there are 28 instructors for 188 students.

1053. With regard to French and German, there can be no reason why there should not be more professors; at Woolwich they have four German professors and four French professors: and you have but three French professors and two German professors; is that the case?—Yes; there are three French and two German professors.

1054. Would you think it advisable to increase the number?—I think there ought to be another French professor, decidedly; I think it is perfectly absurd to think of teaching French well with the limited number of professors that we have at present.

1055. With regard to German, you do not lay so much stress upon that as upon French; but at Woolwich they have four masters, and you have only two?—I think German is of very secondary importance, because if you know French tolerably well, you can get through the whole of Germany. In every country on the Continent they speak French; even in Italy French is spoken.

1056. With regard to fortification, you are obliged upon that to confine your instruction to a certain amount, because you have not sufficient assistance yourself to take any part of it off your own hands; you have just stated that the junior cadets know nothing of sapping and mining and making fascines; would it be advisable to increase the number of masters. In the Estimates there is "Master of fortification"; what is meant by that?—They call some masters and some professors; I fancy the original intention has been deviated from. I am called a professor; and being called a professor, I should only lecture, and allow the students to pick up the knowledge how they can; but the professors being so reduced in numbers, and as by means of lecturing so little would be learnt, I give instruction to each individual student.

1057. In the same manner as a private tutor would do?—Yes.

1058. Colonel *Adair.*] Is there not a collegiate officer who fills another position in teaching fortification besides yourself?—There is another master of fortification, but there ought to be a third.

1059. Colonel *North.*] Is he a military officer?—Yes.

1060. Lord *Lovaine.*] Did you recommend that the duration of the time at Sandhurst for education should be the four years from the age of 14 to 18?—Yes. If a cadet goes to the college older than 14, he is not allowed to remain four years. If he was to go at 15, then his time would be up in three years, because he would be 18. That is the general rule; but if a cadet behaves well, an exception is made in his favour.

1061. Do they pay much attention at Sandhurst to the lower branches of arithmetic?—Yes, I think they do.

1062. Take, for instance, book-keeping; do they study that?—No; but they learn compound multiplication, and addition, and subtraction, which are essential to keep books.

1063. One of the difficulties which meet an officer, particularly when he becomes a captain, is the system of book-keeping which is practised in the army?—No doubt that is a difficulty, and that is particularly observable in those that have been educated at public schools. They have not the slightest idea of book-keeping. In my own regiment, one officer actually resigned his commission because they insisted upon his calculating fractions. The price of bread happened to be something and a farthing, the colonel insisted upon his keeping the books; the officer did not know how to work fractions, and he thought it beneath his dignity to learn, therefore he resigned his commission.

1064. That branch of arithmetic is paid attention to at Sandhurst?—Decidedly; at every step you must pass an examination to get to the step above it. You begin with the lower orders of arithmetic; you must do compound multiplication,

tion, and addition, and subtraction of money, and of measurements; feet, and inches, and so forth. Lieut.-Col. *Adams.*

1065. My question applied more to the system of keeping accounts, which is a very different thing from the ordinary rules of arithmetic; is any attention paid to fitting a youth for the system of accounts practised in the army?—No, they do not go through a system of accounts at all, in the way of arranging a book. 1 May 1855.

1066. *Chairman.*] With regard to the final examination for a commission, do you consider it satisfactory in its present state?—No, not at all.

1067. Will you state why you think so?—I consider, in the first place, that there ought to be no option; I think that is fatal to any system of education whatever. There ought to be certain things fixed upon as the best, and absolutely necessary things for an individual to know in that particular profession; and having fixed upon that, as the student's time is limited, the utmost rigidity ought to be exercised.

1068. Will you state what are the points upon which you think that examination ought to proceed?—I think that mathematics ought to be essential as far as trigonometry and mensuration, not further. They should be examined in the six books of Euclid, trigonometry, and to a small extent in mensuration. I think they should possess a much higher knowledge of French than is at present exacted; I think that a cadet, when he is examined for his commission, ought to be able to take such a book as "Wellington's Despatches," and within a limited time he ought to be able to write down intelligibly, without a dictionary, any passage from it, in French, and he ought to be able to take a French comedy and translate it *vivâ voce* before the Board; he should be able to give an intelligible version of it without the aid of a dictionary.

1069. What else would you recommend?—Surveying should be the same as before; the six things should be all fixed. There would be mathematics, one; French, two; surveying, three; both branches of fortification, five; and military history, six.

1070. Colonel *North.*] Do you include in that a tracing upon the ground?—Yes, that is included in the whole. When you go through the higher branch, everything that is proper to be learnt is taught there; not only setting up a profile, and calculating the contents, and the time; actually digging, nailing the laths up themselves, and making the gabions and fascines with their own hands; tying and making the gads, as a common man would do, but also sapping and mining.

1071. *Chairman.*] Is there anything else that you would recommend?—Universal history is a thing which is proposed to be taught. Now everybody knows that no one can master it scarcely; to exact so much it becomes a mere farce; therefore, I should say, as a military man, that the portion of history which a student should learn, is that which is best adapted to bringing into his mind the tactical operations of distinguished generals. They ought to be selected, say from the time of James the Second down to the present period; that would bring in the campaigns of Marlborough and Frederick the Great, &c.

1072. Colonel *North.*] Is it the case that they are extremely particular with reference to dates in the examination?—I have seen that reported; it is quite a mistake; everybody knows that in history you must know the dates to recollect the order of facts; but they do not insist upon them more than I have seen elsewhere.

1073. Supposing a boy knew the period when a battle was fought, either at the beginning, or the middle, or the end of a reign, would they pluck him because he did not know the exact date?—No, not at all; but he would be required to know within a certain period; it would not do to invert the period of two different events altogether. I think there should be a portion of modern history taught. If a person is fond of history, he will, of his own accord, study it in after life; and if he is not fond of it, he will never know much of it. I think that he ought to be restricted, and made to know the part of history well from the time of James the Second down to the present time.

1074. Mr. *M. Milnes.*] Do not the examinations generally take a military turn, though they are not directed to subjects of military history?—Not at all, because it is the chaplain who examines in history; he questions about the Greeks and the Romans, perhaps, more than on modern military history.

1075. It has been suggested, that it would be very useful if the attention of

Lieut.-Col. *Adams.*

1 May 1855.

the students was more devoted to military history, particularly with regard to large tactical questions; would you also advise that the attention of the cadets should be directed to those subjects?—I think they ought to study a portion of history, selected so as to bring in military matters; and they should have their attention directed solely to that, and they should be examined solely upon that, to improve their judgment on military operations.

1076. Would they be likely to be more interested in those matters?—Yes, I think so; in the events of a more recent date.

1077. Would it be of any practical use, in leading them to apply the military tactics of modern times?—Perhaps certain characters of modern times would take their attention, and that would draw them into a course of reading. They might hit upon the "Campaigns of Lord Peterborough," which are very romantic, and that would lead them to the subject generally. If they met with an interesting character, such as Lord Peterborough or the Duke of Marlborough, it would teach them to read other books upon the subject.

1078. Do you find the cadets inclined to read military history upon their own account?—I think with the senior cadets, when it has been read to them, they have taken an interest in it. I have frequently drawn their attention to the different great military characters, such as Prince Eugene and others, in illustration of fortification. I am obliged to bring in the tactics of celebrated commanders, to give them an idea of the advantages or disadvantages of certain works and movements, and they are very much interested in that.

1079. Do you find that such books as Jones's Sieges, or Napier's History of the Peninsular War, are frequently read by them?—That I cannot say generally; the education that I give them would be pursued afterwards; I should rather think at the college they do not read much of anything whatever. Their hours are properly seven hours one day, and five hours and a half the next day. Then they have their military drill, and so on; and after that they feel more inclined to run about than to sit down to read.

1080. Do you know whether in the French colleges the study of military history is extended to the lower students?—It is; they are required to know a certain portion of history, but it is limited to a part of French history.

1081. Do you mean the department of military history?—I do not know what part of history they take; they exact a much higher examination upon their entrance. I remember perfectly well that they are required to have a knowledge of the history of France, from a certain period to a certain period.

1082. Do you know whether the study of Latin is attended to?—It is not much; in fact, it is not much attended to in any place of education in France or Germany.

1083. Lord *Lovaine.*] Is Greek altogether excluded?—Yes.

1084. *Chairman.*] Is there any other point, with regard to the education at Sandhurst, to which you wish to direct the attention of the Committee?—I think they ought to know the German grammar, and of course military geography.

1085. Sir *G. Tyler.*] Do they study astronomy?—They do in the senior department, but not in the junior department.

1086. Would you include arithmetic in your mathematical examination?—Yes; in all the previous steps, up to plane trigonometry and mensuration.

1087. With regard to the examination itself, do you consider that the examination is conducted in a proper manner, or do you think that any improvements might be made with regard to the examiners?—I think the examiners ought not to be the professors of the college. The examiners of Woolwich ought to examine the cadets at Sandhurst, and the professors of Sandhurst ought to examine the cadets at Woolwich. It used to be the superintendent of studies who examined all the classes; therefore of course the superintendent of studies ought naturally to be a man of very varied attainments, but I do not think the present superintendent of studies has ever exercised that part of his duty; he is present at the examination, but he does not examine, and is at present, on leave.

1088. Practically, the professors examine each in their own department?—Yes, but I would rather not do so; I am constantly examining, and it seems to me a repetition. It would be a fairer test of their acquirements, also, if they were examined by other professors.

1089. With regard to what has been stated in evidence in respect to the steps, do

do you think that that examination is satisfactory?—I think the examinations themselves are very good in that part.

1090. When a student is examined as to a step, he is only examined as to what he has learned in that particular time; the examination is not to ascertain whether he retains in his memory what he has learned in former classes; is that the case?—Yes, that is so.

1091. Is that a good course?—I do not admire the examination of removes at all; I should have no removes at all if the matter were left to me; I should pursue the system which is followed at Woolwich, and in the French schools. In France a cadet has certain studies put down that he must master, and when the period comes he must be prepared upon all; and if he is deficient in one, however well he knows the rest, he is excluded. For instance, there is a certain portion of mathematics put down; if he knows everything else ever so well, but is deficient in that one thing, he is excluded.

1092. Would you have no examination till the final examination?—No. I would do the same as is done at Woolwich; there is a certain course, and at the end of a certain time he would be prepared for the final examination, and a report should be made upon him without having him removed from this step to that step.

1093. If a student does not get through a certain portion of what he has to learn in a given time, he is returned upon the hands of his friends; how would you do that if there were no examination?—There ought to be the Lieutenant-governor's examination, the same as there is every half-year, to see whether the individuals have made that proportion of progress which is requisite for finishing at the time.

1094. Sir *G. Tyler.*] You would have a half-yearly examination?—Yes, just the same as an officer at the senior department; every half-year an officer is required to do a certain portion of the work for the whole time, otherwise he must go; and that would also apply to a cadet, if he has not done what he ought to have done in everything. Now, a cadet probably learns French very well, and then ceases altogether. I think they ought to go on *pari passu;* he ought to have a proper knowledge of each branch, and if he fails in any, he ought to be considered incompetent.

1095. Is there a probationary examination for the first half-year?—No, there is no probationary examination for the cadets whatever; when they are ready for a certain step, and are reported, they go up that half-year; and when they have done their six things, they are recommended for their commissions. You may go up in three if you like, at one time, or every one separate, once in six half-years.

1096. You stated that the Lieutenant-governor has a half-yearly examination?—Before the final examination of the Board. There are a certain number to go up in each branch in different degrees, and before each class appears before the Board of Commissioners, they are examined once in the presence of the Governor, and sometimes twice before the Lieutenant-governor. Every cadet in my department has one examination before the Governor and two examinations before the Lieutenant-governor; that is three, and then a fourth examination takes place in the Board room before the Commissioners.

1097. Colonel *North.*] Would you make horsemanship a part of the examination for the cadets?—It is now, before the Commissioners; they go down to the riding-school, and every cadet goes through part of the sword exercise, and all the evolutions carried on in a riding-school.

1098. *Chairman.*] You stated that you thought it would be necessary to have an increase of professors; do you think the present military staff is more than is absolutely required?—In some ways it is. In one respect I think that a governor is essential, and for this reason: that at Sandhurst it is not the same as at Woolwich. It does not depend upon the caprice of the public whether Woolwich College is full or not; it does quite depend upon the caprice of the public at the Royal Military College, and everybody must know that there is a certain prestige attached to the governor of the institution. I have not the slightest doubt that if the Duke of Cambridge were appointed governor, a greater number of persons would send their children to be educated there than if he were not governor. When Sir George Murray was governor, and when the governors were persons of very high influence, such as Sir Edward Paget and Sir Alexander Hope, we had a great number of noblemen at the college, but lately there have been very few indeed.

Lieut.-Col. *Adams.*

1 May 1855.

1099. Does that arise from what you call fashion, or from the impression that having greater influence, the governor would be able to push the officers more than they would otherwise be pushed for staff employments?—I think not at all. I think it is merely from this fact: such men as Sir Alexander Hope or Sir George Murray, or the Duke of Cambridge, have a great number of friends, and they would naturally say, "Send your sons to Sandhurst to be educated," and that would have a great weight; whereas the recommendation of a general officer with less powerful connexion would not have that influence upon the world. That affects the finances of the college, and consequently it affects the discipline and everything. They cannot insist upon a proper rigidity with regard to the studies. For instance, if they refuse candidates of the third class because they cannot do printing or arithmetic, they lose 125*l.* a year for each, and so the college would suffer: of course, this is a mere inference, which I consider natural.

1100. Do you consider that the fact of the college being self-supporting interferes with the proper discipline of the college?—Yes; and also with the proper carrying on of the studies. It has the tendency to incline the authorities not to exact the proper amount of knowledge in each branch, because if a great number were sent away without getting their commissions, then it would go abroad that it was a hopeless case sending a cadet to get a commission from the college, because of its being so difficult to pass the examination. With regard to Woolwich, you cannot get a commission from the Ordnance without going to Woolwich, so that people are obliged to send their sons there; but 99 persons out of 100 who send their sons to the Military College do not send them there as persons send their sons to Harrow or Eton, but they are merely sent for the sake of getting a commission for nothing; not for the education.

1101. Is it necessary to have a lieutenant-governor of the college?—It is necessary to have a governor and a lieutenant-governor, or any other two officers holding a similar situation; I think two individuals are necessary. The governor may have a great deal of difficult correspondence to enter into with the parents; they are often very influential people, and it very rarely happens that a parent thinks his son is either stupid, idle, or bad. If you send a cadet away for anything, his friends very naturally believe that he is not fairly treated, and probably many persons would not be able to contend against that feeling; they might be overborne.

1102. You think that an officer of high standing for the situation of governor is necessary?—Yes; and I think the world would generally rather trust to the decision of a person of high distinction and influence; his word would be taken without any hesitation, rather than that of a person of inferior rank.

1103. Is it necessary to have a lieutenant-governor and a major also?—No, I think not. The lieutenant-governor generally has been a person put into the office merely as a good situation, and the superintendent of studies has been appointed to do his duty; but the present lieutenant-governor was the superintendent of studies, consequently he is actually the working man, and therefore I consider now that the office of major and superintendent of studies is unnecessary: in confirmation, he is now absent on leave, during the most busy part of the term.

1104. Sir *G. Tyler.*] What are the separate duties of the governor?—He has the control of all the finances; and he has to superintend the general management of affairs. He is also one of the Commissioners. If any references are to be made on any great act of insubordination, or any of the professors were to do anything wrong, he would have the decision with respect to it. He can also interfere with the cutting down of the trees or the timber; or with regard to enlarging the grounds; or giving a privilege to this or that person, or taking it away. The lieutenant-governor has merely the detail, and all the discipline. Either a lieutenant-governor or a superintendent of studies, possessing the varied attainments necessary to examine the classes, is absolutely necessary. He might be called by any name you like, but both are not necessary, because the military duties are very small indeed. There are two captains, and alternately they could each attend to all the discipline. There is only about three quarters of an hour's drill a day; and with the same military staff, you might carry on the discipline of 1,000 men in quiet quarters.

1105. Colonel *North.*] What are the punishments among the cadets?—Imposition studies for light offences; extra guards; close arrest, which is confinement

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to rooms; or open arrest, which is confinement to the college parade. They have a room for confinement. Lieut.-Col. *Adams.* 1 May 1855.

1106. There is no black hole, is there?—No.

1107. It has been stated in evidence that a great number of rooms are given up for the purpose of cadets being shut up in them by themselves, for the purpose of doing impositions; is there any part of the building that might be substituted for that purpose?—I think so; and the four rooms which are employed in that way might be occupied as dormitories.

1108. For instance, the dining-room has been given up for a model-room; if a model-room were erected, that dining-room might revert to the purposes of the dining-room of the A. company, as used to be the case. And the same with regard to the senior department; might not the rooms now occupied by them, which belong to the junior department, be given up for the use of the junior department?—No doubt of it.

1109. Mr. *Rich.*] You stated that it required a governor of high station in order to attract scholars?—Partly for that, and partly, as I said, to carry on the discipline; to insist, in spite of influential people, upon the rules being carried out strictly.

1110. Do you not think that a solid and good education, at a fair price, would attract people, independently of the name of the governor?—Not at this institution, I think. In the first place, the education which is given there is unpopular in the country. Almost everybody seems to think that classical education is the sole thing necessary for every profession. There would generally be a prejudice consequently against the institution; they would consider it an inferior style of education.

1111. Do you think that, generally, the officers in the army have received a classical education?—A great number of them have. There are only about 30 commissions given in a year at the Military College, whereas every year, in peaceable times, there are about 500 or 600 given away; consequently by far the greater portion of the army are not educated at the college.

1112. That number does not accord with the returns made to Parliament?—I am not certain about the exact number; I saw it stated that that was the number: it may be between 400 and 500: at all events, an immense majority do not pass through the college.

1113. Do you think that if the cadets, on going through a good course of education, had a reasonable expectation of obtaining a commission, and if, on passing a brilliant examination, they might look forward to being pushed on in the army, that would be an attraction to the public?—It would, certainly; but at present there is nothing at all of that sort. If you would insure or make it necessary that every staff officer, as a matter of necessity, must go through the junior department, it would require no patronage whatever, no governor of distinction; but at present it is not so. It is not at all necessary, in order to obtain a commission, that a man should go to the Military College.

1114. Your notion is, that in the present state of education, with the small prospect of promotion resulting from good education, a governor in a high station is necessary to attract persons to college; but if the college were reformed, you think that a governor of such attractive qualities would not be necessary?—Yes, I perfectly agree with that.

1115. Do many of the cadets come up entirely for the sake of getting their commission?—The greater part come with the idea of getting a commission for nothing.

1116. No one can get a commission from the college for nothing except he has passed an examination?—No; he must pass through an examination to obtain a commission without purchase, if he comes to the college.

1117. The fact of a cadet being at the college would not constitute a claim on his part at the Horse Guards for receiving a commission; it would depend upon extraneous influences?—Yes.

1118. But the fact of a cadet getting a commission through the college involves the necessity of his passing an examination?—Yes: a commission without purchase.

1119. And those examinations are the test of a tolerably good education?—Yes.

1120. With regard to the half-yearly examinations, would you at the end of the half-year redistribute the boys in the classes according to the results of that examination?

Lieut.-Col. *Adams.*

1 May 1855.

examination?—No; if they did not attain that proficiency which was necessary, they would have a warning; and if in the next half-year they had not done so, they would be removed altogether.

1121. But you would not alter the classes of those who remained in the college?—No; they would go before the Board finally in all the branches together.

1122. Would you leave a boy during the whole period of his stay under the same professors in the same branch?—Certainly not; if he was well up to his particular branch, and could do more, then he would go under such a professor as could teach him more. If he had gone through the regular course, and felt disposed to do anything more, he should have the liberty of doing so, and be noted accordingly.

1123. At the end of the half-year, if he was with the lower-class mathematical professor, and was sufficiently advanced, you would remove him to the higher-class mathematical professor?—Yes.

1124. Would not that involve a classification of the cadets?—I should think it would, only it would depend upon the report of the professor with whom he was.

1125. You stated that there was a defect with regard to the discipline, in consequence of the college being self-supporting; but is it not the case that some boys pay not only as much as their education costs, but as much more as makes up for the inadequate payment of the orphans?—I mean to say, that as it depends upon the caprice of people, if once the college got the reputation of being so difficult in its examinations, that you could not get a commission, people would not pay 125 *l.* a year; if it once transpired that a cadet frequently remained there for four years, and paid 600 *l.* and got nothing for it, people would not send their sons at all to the 125 *l.* class; you would only get the lower class.

1126. Did not you state that none of those who pay the high rates do get commissions?—No; I think the 125 *l.* class fully take their share, but not more than their share, of the commissions.

1127. But that 125 *l.* is very much more than the cost of the education; the college makes a profit by them?—The college evidently makes a profit by them, because they support a certain number at lower rates.

1128. Colonel *North.*] You mean that the feeling is this; that whoever has the power in the college thinks twice before he would get rid of a gentleman paying 125 *l.* a year, because it might be difficult to replace him?—Yes. The funds of the college probably are very low, and they would most likely have a tendency to relax the examination, and not reject a person who offered himself for 125 *l.* a year, although really he was not up to the mark; or they might admit a person who stammered, and say, "Probably he will get rid of it;" whereas at Woolwich, where they are compelled to go if they wish to be officers of artillery or engineers, the authorities have not that temptation to relax the rules.

1129. What are the duties of the cadet non-commissioned officers?—Just the same (as near as the thing can apply in proportion to the small quantity of military duty they have to perform there) as the duties which are performed by the corporals and serjeants in a regiment.

1130–31. With regard to the staff serjeants, what are their duties?—Their principal duties, and they are very important, are to see that the cadets do not go out of bounds, and report infractions of rules or discipline, &c. Perhaps a young gentleman there would not report any little thing, such as smoking or going to public-houses; no one would tell of another: but the serjeants do that; they report that a cadet is smoking, or committing any breach of the rules; they would take his name down and report him at once. There is no objection to having them, provided you get good men.

1132. Mr. *M. Milnes.*] Have you succeeded in getting good men?—Yes, I think so; they have been very particular of late years; and from what I have observed, I think they are trustworthy men.

1133. Do you think that any corruption goes on between them and the students?—That may be the case, but I think it is very little; it is possible; but they take an oath against it, I believe.

1134. Do you think it would be unadvisable to establish any authority of the upper over the lower boys analogous to the monitorial system in public schools?—I think that system is very objectionable; all the authority that is exercised

cised at Sandhurst is merely in putting them in arrest. They put them in arrest, but that admits of a reference to the authorities, whereas in the monitorial system they suffer very frequently what cannot be remedied. Lieut.-Col. *Adam*

1 May 1855.

1135. Would it not be of some advantage, as those young men are going to have the command of men themselves, that they should learn habits of command?—I think they do learn them as to military points, but I am doubtful whether there would be any advantage in giving them any higher authority than they have. They do learn to command, because they are obliged to submit themselves, both to the civil and the military officials.

1136. Colonel *North.*] They are not allowed to use any force, are they?—Not in any way. There is no such thing as fagging; that has been lately, within the last 12 years, done away by special command of the Duke of Wellington. He sent down word that the junior boys should always be in one company; and then, when they attained a certain age, they should go to the other.

1137. How many cadets are there at the college?—One hundred and eighty.

1138. How many more could be admitted?—I think you might increase it by 90.

1139. Mr. *M. Milnes.*] Are there any instances of bullying or ill-treatment among the students?—When I was a cadet there was constantly, and I suffered a great deal. Every sort of ill-treatment used to be exercised upon a person who was a small boy, and not a very popular one.

1140. Sir *G. Tyler.*] You state that the under officers perform the duties of the serjeants and corporals; have they no other duties to perform?—They have minor duties, such as these: they take charge of the library and the news-room, and they prevent any disturbance taking place. They are called upon to report upon any irregularity, or to take notice of it personally by putting the individual in arrest. They mount guards also.

1141. Have they perfect control over the boys?—Yes, the under-officers frequently put the cadets in arrest.

1142. Having that control, have you any knowledge that they do not do their duty in reporting any misbehaviour on the part of those under them?—In respect to anything which would be attended with too serious consequences, I do not think they would report it. If a cadet was found to be intoxicated I do not think they would report him, because it might lead to serious consequences.

1143. You stated that the serjeants are necessary, because you could not place confidence in those under officers to report any impropriety that might occur at the college?—Not of certain sorts; for instance, if a cadet heard another cadet swear he would not report it, nor would he report any other conventional evils.

1144. Mr. *Hardinge.*] Is the effect of this authority at all to introduce any undue familiarity between the cadets and the serjeants themselves?—No, I think not.

1145. You do not object to this authority being exercised by persons not having a gentlemanly education?—No; I do not think, considering the strict superintendence under which it is exercised, that it would be attended with any bad effects.

1146. *Chairman.*] It has been suggested that there should be a gratuitous class at the college; what is your opinion with regard to that suggestion?—I think there ought to be, certainly.

1147. Will you have the goodness to state how many you think the college could accommodate, and of what that class should be composed?—As far as the number goes, the college could accommodate 90 more, with the requisite increase in the staff of professors and servants; but it would be a different question whether the whole 90 should be a gratuitous class.

1148. Will you have the goodness to state how many you think should be admitted, and under what limitation they should be admitted?—I think there ought to be as many as 25 for 180; but if there are only 25, I should say that some should be gratuitous for officers of inferior rank; they should not all be orphans.

1149. Do you mean those whose fathers have died in pecuniary distress?—Not only that, but there ought to be some admitted who are the sons of subalterns.

1150. At present the 40*l.* class is fixed to 25, and you are desirous of extending that class?—No; I am in favour of extending the gratuitous class.

1151. Would you have the sons of subalterns educated free of all expense?—Yes,

Lieut.-Col. *Adams.* 1 May 1855.

Yes, I think so; 40 *l.* is of very great consequence to a poor man, whereas 40 *l.* to keep up the establishment is really nothing; consequently I think it is doing away with the boon altogether by charging anything at all.

1152. Lord *Lovaine.*] How would the son of a subaltern attain his previous education to enable him to pass his examination?—The examination is so easy that any boy from a British school in any country village would pass the examination; it is so easy as that. French has been rather more extended; but with regard to arithmetic, spelling, writing, reading, and printing, any village school would produce boys sufficiently advanced for that.

1153. Mr. *Hardinge.*] Then instances of boys being rejected do not frequently occur?—No; I think they ought to have occurred much more frequently; but it is owing to over-indulgence that they have not occurred. Persons are permitted to pass whose attainments, in my opinion, would discredit a boy of 10 years old.

1154. Are the examiners more lenient in the case of orphan cadets than in the case of the others?—No, I do not think that any difference whatever is made.

1155. *Chairman.*] Will you state to the Committee whom you would admit under this gratuitous class?—A certain number of orphans, and a certain number of officers of junior rank.

1156. Would you make it a condition that their parents should be in distressed circumstances?—Merely and simply if they declared themselves as wishing to be put in that class. In the case of subalterns, if a subaltern officer applies for his son to be put on the foundation class, I should take his word that he could not afford to pay for his education; because I think very few persons of means would apply to have their sons placed in the orphan class under such circumstances. There are very few subalterns, men of property, who are old enough to have sons of the requisite age. The orphans and the sons of subalterns should be a gratuitous class, and it should be distributed between the two.

1157. Would you take in that class the orphan son of an officer whose relations were competent to pay?—Certainly not; I would regulate it in the same way that pensions are distributed in the navy: a pension is not given to a naval officer's wife unless she declares that she has not so much private means.

1158. Colonel *North.*] A subaltern officer sending his son to Sandhurst, does it with his eyes open with regard to the profession which he is entering into. If a boy did not like the army, do you see that there would be any objection to his being educated at Sandhurst for any other profession except the army?—Certainly, he might be educated for any profession; there are 13 different subjects taught at Sandhurst, and out of those seven are not merely professional.

1159. Suppose the country held out prizes to those orphans who conducted themselves well, and were attentive to their studies, it would be a great boon to the orphan of an officer, provided the son did not like to follow in the footsteps of his father, if he could still be brought up at Sandhurst, to enter the Foreign Office, or the Ordnance Board, or any public department?—I think it would be very feasible and proper. They do so at the Polytechnic Institution, in France; persons are educated there for the Customs and all the civil services. It would be a very proper thing to do, I think.

1160. However well and economically a regiment is conducted, there is always an expense in fitting out a boy?—I differ from Colonel Prosser most materially in many points, arising probably from different degrees of regimental experience. I know that he objects to officers being appointed who have no means. Now I have known very many who never had a farthing. In the regiment which I first joined, we were quartered, even at Plymouth, with a regiment of the Guards; there were people of all ranks there; there were guardsmen and cavalry men. Colonel Stewart, the son of the famous philosopher, Dugald Stewart, was a man of property. And people not only lived there without a farthing besides their pay, but our establishment was so good, that frequently it has been remarked to me by officers of the Guards, "All your people are men of property." "Oh," I said, "I wish they were; but most of them get nothing besides their pay." I have been in large garrisons, and in every regiment, I should say (with the exception of a very few), there are people without a farthing in the world besides their pay. In the 11th Regiment, many of the officers had no property besides their pay when Lord Frederick Fitzclarence commanded it.

1161. Mr.

1161. Mr. *Hardinge.*] Is it your opinion that an officer can live comfortably with his brother officers in a regiment on his pay alone?—Yes, I think he can.

1162. Mr. *Adair.*] Does not it require a young man of no ordinary habits of self-control to do so?—I think the causes are attributable to two reasons. In the first place, generally speaking, the officers of an army have no education at all, and they have nothing to interest them. If they know anything it is a little Latin, nothing more; and how are they to amuse themselves? They do not take any interest in any reading; they do not know surveying, nor are they interested in military matters at all. But I have observed officers who know anything, instead of engaging in racing and billiards; they will say, "Let us go out, and take a sketch of such and such an object to-morrow." If the colonel is a man of education at all, he would say, "I should be very much obliged to you to go out and take a sketch of such and such a country." Another man would have a discussion upon the comparative merits of the Duke of Marlborough and the Duke of Wellington, and the Earl of Peterborough, and they would read upon the subject. If an officer joins a regiment without any education at all, he does not know what to do.

1163. Is not that rather antagonistic to the opinion which you have expressed; you say that the generality of officers in the army are not educated, and therefore they betake themselves to expensive amusements?—No, it only shows a want of control; I think that does not arise necessarily. I may go to London, and I may choose to go to an expensive hotel and get into debt, as many persons do who go and pass their examinations as young surgeons; we know that they are very wild, but it does not follow that a young man should do so.

1164. Is not it improbable, and almost impossible, that it should be otherwise, when a young man goes into the army without a shilling besides his pay, that he will get into debt?—No, my experience goes against it. There are some, of course, who have no control over themselves, but I have met with very few. It was those who had good allowances that generally got into debt, because it stimulated them to keep horses and get into racing; and that was caused by their wishing to imitate those of superior fortunes and means.

1165. Colonel *North.*] Do not you think that more depends upon the judicious management of the colonel of the regiment than upon the officers themselves. If a commanding officer does not choose to trouble himself about the arrangements of his mess, and the different details of the regiment, and allows the young officers to go to plays without giving them advice, does not a great deal more of their extravagance depend upon that than upon anything else?—No doubt of it. There are six very stringent rules which, every half year, every lieutenant-colonel is obliged to certify have been adopted, particularly about the mess; and I may say that I scarcely ever knew a regiment where they were not broken through.

1166. Mr. *Rich.*] Will you state those rules?—The first is, "That the Prince Regent's allowance given for the cheapening of the wine of the officers of the mess is devoted entirely to the purposes for which it is ordained." Many regiments otherwise appropriate it. The second rule is, "That no officer has been encouraged to join in giving subscriptions for balls and parties." I have often heard officers who had no inclination for such things say, "I am constrained to do so, or else I should be thought a shabby fellow." Then another rule is, "That the different officers are not in debt with the mess-man monthly or periodically." I have been in two regiments; and in my first regiment, for a certain time, when I could live on my pay, all those rules were attended to; but afterwards, when a different set of officers came in, they did away with the good system, and all those things were not attended to at all; if they had been attended to, an officer could have lived on his pay, no doubt, and did do so.

1167. Mr. *M. Milnes.*] To what do you attribute this very lax morality in signing declarations which are contrary to the truth?—I attribute it to this: that it is always very agreeable to have what are called flash people under you, who can keep horses and do things in a very fine manner; consequently the lieutenant-colonel, even if he is a poor man himself, in order to keep pace with other regiments, likes to do things in that way; and if he has poor people in his regiment he cannot do it; consequently, his regiment sinks. Therefore he would rather oust the poor men from the regiment, because their presence controls him in giving that *éclat* to his regiment which it would otherwise maintain.

1168. Colonel *North.*] With regard to the certificate which the parents are

Lieut.-Col. *Adams.*

1 May 1855.

obliged to sign, to the effect that a cadet is not to have more than 1 *l.*; as it is the fact that documents are now frequently given by the parents to the tradesmen at York Town, authorising them to trust their sons to a larger amount, would it not be better to omit altogether any certificate of that description?—It is requisite, when there is a mixed class, some very rich and some very poor, to limit the sum for the sake of the boy,

1169. But it is not limited at Eton?—Still it is necessary to have that regulation; because otherwise, as there are sometimes cadets at Sandhurst who have independent property, they might draw 500 *l.*, and that would create very great confusion, because they would treat the other cadets, probably.

1170. *Chairman.*] Have you any control over the shopkeepers in the place?—Yes, if they sell tobacco, or things prohibited, or allow the cadets to go in debt, and it is known, they are made out of bounds; so that a very material control is exercised.

1171. Supposing it should be discovered that credit is given beyond what ought to be given to a student at a particular shop, is there any power of preventing the students going to that shop?—Yes; and it is exercised sometimes.

1172. Would it be exercised in case of its being discovered that credit was given?—If it went to an excessive amount; but with respect to a tailor, it is almost impossible to prohibit it. Grocers and pastrycooks you may prohibit. Very often great extravagance occurs with the tailors, and letters are sent round to all their friends, begging them not to pay any bills there.

1173. Are the students extravagant at the college?—No, not as compared with the public schools; it is nothing to the same extent whatever. It is considered a very large amount at 50 *l.* or 60 *l.* or 70 *l.*, but that would be considered nothing at a public school or a university.

1174. Sir *G. Tyler.*] With reference to the orphan class which you recommend should be increased, you stated that an ensign can live entirely upon his pay in a regiment. When an officer first joins a regiment, are there not certain regimental subscriptions which he is obliged to enter into?—Yes.

1175. Supposing that to be the case with an orphan, would it be possible for an ensign to pay those subscriptions, and still exist upon his pay, and pay his mess?—I think he ought to have 100 *l.* given him for his outfit. If he does not start fair, it would be impossible for him to get through.

1176. Viscount *Monck.*] Is not it the habit to allow a man two months' leave after his appointment, before he joins?—Yes, that is quite true.

1177. Will not that two months pay all his subscriptions?—Then he has his outfit to provide for. Those two months would certainly pay the subscriptions, if they were the only expenses.

1178. Mr. *Rich.*] You state that, generally, there is a great deficiency of education amongst the officers of the army, and more especially of military education?—Yes.

1179. You attribute many expensive habits that obtain in the army to the want of that education, both general and military?—Yes.

1180. You think that colonels who have a desire to repress expensive habits would do so with greater facility if the officers were well educated, both as gentlemen and as military officers?—Yes.

1181. You attach great importance to a military education?—Yes.

1182. Has it ever crossed your mind that, with certain exceptions, if necessary, an officer should pass through such an examination as should prove that he was proficient in a military education?—I think that no officer ought to be allowed to enter the line unless he has passed through a military college.

1183. Would you think it possible to extend the Military College at Sandhurst so much, as to make it the general medium through which the officers of the army should be educated and passed into the army?—It could be done; and not only so, but without costing the public anything.

1184. The more cadets you had at the college to a certain degree, the less would be the cost of each cadet?—No doubt, because the same staff would be sufficient for the education of a larger number.

1185. Therefore you would be glad to see means adopted for extending the number of the cadets?—It would be advantageous for the public.

1186. At the close of the war the Military College contained 412 cadets, and you see no great objection to the same building holding the like number?—I do not think the building would hold at this present moment more than 270, but

but by adding some extra buildings for model rooms, by removing the senior department away, it might be made to hold considerably more.

1187. In fact, with no great expense, it might be made to hold 412 cadets without increasing largely the present staff?—I do not know what would be considered large, as the professors are too few already; there ought to be three more now, and in proportion to the numbers more would be required.

1188. The civil tutorial staff would be increased, but you do not see any necessity for a larger military staff?—No.

1189. The cost is stated to be, for the higher class, 125*l.* a year; are there extras which make it more than that?—Yes, it is about 150*l.* altogether.

1190. By the last return to Parliament, it is stated that the total expense is 17,795*l.*, calculated upon an establishment of 180 cadets, which gives an expense for each cadet of 98*l.*; do you apprehend that if the charge of 125 *l.* were considerably reduced, the number of applicants for admission to the college would be increased?—No, I do not think that it would increase the number of applicants. It must affect the increase of the applicants, if you either compel every man to pass through a military college before he can become an officer, or make it imperative before he can be appointed to the staff. Whether you made the payment 150*l.* or a higher sum, it would make no difference to that class; they would not care if it was 200*l*, in such a case.

1191. You are aware that in the army there are many sons of poor country gentlemen, or poor clergymen, or professional men, to whom it would be a very serious thing to pay 150*l.* a year for one son's education?—I think it is as low at Sandhurst as anywhere else.

1192. Do you think it as low as Winchester?—I should think that, considering the number of things they are taught, it is. I should think there is no institution in this country where you could be taught all those different branches at 150*l.* a year, and that includes medical attendance, and everything else.

1193. It is stated here that the total expense, according to the terms for a boy, is from 70*l.* to 80*l.*; if upon the estimate the total expense is from 70 *l.* to 80 *l.*, is not it an injustice to make him pay 45 *l.* more than he costs?—Excepting that you give him a commission, which you do not do in any other institution. In other institutions you give him nothing besides his education. He goes there and gets his education, and then goes away; but at Sandhurst, you say, "I will make you a present of a thing worth in the market 450 *l.*;" consequently, you give him his education and that into the bargain. Now, at any public school whatever, you give him nothing but his education.

1194. Supposing he does not get his commission?—That cannot be reckoned upon, because he knew what the regulation was beforehand. When he does not get his commission, it generally arises from idleness. If a person's conduct is such that he cannot obtain the desired reward, of course that cannot be avoided.

1195. Upon what principle do you think it right that the Government should charge a person for the education of his son, 45 *l.* a year more than he costs, upon the chance of his getting a commission?—I think it would be much fairer to do otherwise; but even in the French schools, at St. Cyr and the Polytechnic, they pay 1,000 francs, that is, 40 *l.* a year, and 20 *l.* down for their outfit.

1196. Is not there a vast difference between 40 *l.* and 125 *l.*?—We know that in French hotels and French living they are less expensive than in this country; they are not fed and taken care of as they are here. A sum of money to obtain the same means of living in this country would be greater than in France and Germany.

1197. They only charge 1 *s.* 5 *d.* a day for it?—The St. Cyr and the Polytechnic schools, but particularly the St. Cyr, would be more on the scale of our non-commissioned officers, as regards their treatment, than what we consider necessary for gentlemen in the army.

1198. You are an advocate for admitting officers of very small means into the army, and educating them for nothing; but would you confine the army merely to the destitute children of officers, and to those who can afford to pay from 130 *l.* to 150 *l.* a year for the education of their children, and so exclude the children of persons of moderate means throughout the country?—It would be fairer, no doubt, to make the sums equal. If a person get a certain thing, it is fair that he should not pay more for it than his neighbour; but this being a military establishment, there are questions connected with it beyond the mere circumstance of

Lieut.-Col. *Adams.*

1 May 1855.

a single education purchased; it is furnished to supply officers in the service; it is not like a public school at all.

1199. It is a school made to procure the best officers for the army?—Yes.

1200. Do not you conceive that a very valuable body of officers would be gained from the sons of gentlemen and professional men of moderate means throughout the country?—Yes.

1201. You have stated that you thought the presence of men of large means tended rather to create habits of expense, which lead young men into scrapes; would you therefore be glad to see the sons of gentlemen of moderate means admitted into the army; and being admitted, would you be glad to see them receive a sound military education?—I would certainly as soon see a nobleman in the army, and rather sooner, if he was educated, than a man of an inferior class; but I would rather have an uneducated plebeian than an uneducated nobleman, because his influence would be great in any way; and if his influence was for evil, the example of the nobleman would have much more weight than that of the plebeian.

1202. Do you see any necessity for the children of wealthier persons paying the difference between the cost of the orphan and the real cost of their own education; might not the State bear that?—I think they ought to do so certainly.

1203. You stated in the earlier part of your evidence that the College authorities have some reluctance to part with the young men who pay the 125*l.* a year?—Every professor must feel that such is the case, looking at the people who get commissions. I have seen people get commissions who were not in my opinion at all qualified for them. Had I been the proper person, without remorse, whether they were rich or poor, I should not have allowed them to get their commissions; nor would I have given a stammerer his commission.

1204. Your general principle is, subject to certain exceptions, that all officers should pass through the college, and should not pay more for their education than its full cost?—Certainly.

1205. *Chairman.*] Do you think, taking into consideration that those who enter at 125*l.* a year have the prospect of a commission which is worth above 400*l.*, they do pay more for their education than they get?—They do not pay more for their advantages than they get; they pay more for their abstract education, but they get an advantage afterwards which more than compensates them for that. If a cadet is there four years, and pays 600*l.*, he gets his board, most excellent medical attendance, a good education, and a commission worth 450*l.*

1206. Taking the case of a poor gentleman, is not it cheaper for him, if he can get an appointment to the college, to put his son into the college, than to give his son an education anywhere else, and to buy a commission for him afterwards?—Decidedly, it is much more advantageous to send him to the college.

1207. Colonel *North.*] The college was intended exclusively for the sons of officers in the army and navy, and the third class was established as a matter of favour for civilians; and the reason why they were called upon to pay more was, because it was a matter of favour; do you think that if the country chose to vote a certain sum of money every year, there is any reason why everybody's son who went to the college should not be educated at the same cost, except orphans, who should pay nothing?—Certainly, I think it would be fairer that every gentleman should pay a fair and reasonable amount; and if any extra sum is required, I think the country ought to pay it.

1208. It is, in point of fact, an affair of money granted by the country?—Yes.

1209. Viscount *Monck.*] Did you say that no officer should enter the line without passing through the college?—Yes.

1210. Do you think that it would answer your object if a young man was allowed to educate himself until he came to about the age that he would be fit to pass his preliminary examination, and that then he should go to a military college afterwards?—No; it is so very difficult to test the educational acquirements or abilities of any person by an examination; you must have a long knowledge of an individual before you can know what his acquirements are, or even his capacity; some persons are very lucky, they get more easy questions than others; others have more confidence; and there are many circumstances that might lead you to make a very great mistake with reference to the character of a young man;

man; whereas, upon an examination at a military college you see the young man day after day, you see his ability, his taste for military science, and his capacity and so on; in an examination you must have a certain rule for a test, and that might be very fallacious.

1211. What is the average amount of commissions given away in the course of the year in ordinary times?—I heard it stated by the Secretary at War, and at the college also, that between 400 and 500 were disposed of by purchase, and otherwise.

1212. Did you state just now, that the present establishment at Sandhurst was susceptible of being enlarged to supply the whole army?—I did not say that; I merely said that it might be enlarged for 400 people. In the case of the school at St. Cyr and the Polytechnic School, the best are selected for certain purposes, and the worst are selected for certain other purposes. I do not see why the same system should not be adopted at Woolwich, and there is no reason why Addiscombe should not give its quota also; I consider that there are very few things requisite, and they ought to be known well; and then other things a man will take to according to his taste.

1213. You think that a boy ought to be educated for the army from the age of 14?—Yes, I think so, because it gives him an aptitude that I have not found in others.

1214. Colonel *Adair.*] With respect to the accommodation necessary for such an education as you anticipate, supposing in ordinary times the mean of commissions given is 400 annually, the period during which those cadets remain at Sandhurst will probably average three years, that will require the means of accommodating an establishment of 1,200 cadets: is it your opinion that the circumstance of being trained in large masses would improve the military spirit and genius of the boys so trained?—No, I do not think it would have any benefit at all; I think it would be far better that they should be trained in small masses, because you can give more individual attention to them then; and vices, also, do not spread so much in small bodies as in large bodies.

1215. Is it not the case, that boys educated in large bodies instruct one another to a very great extent?—I am not conscious of that.

1216. From the circumstance of forming one of a body of 1,200 boys, would not the eye be educated with respect to the spaces and distances necessary for the movement of bodies of men?—If you happen to have a large number of persons, I think the advantage is this: that you get a better manner and a better style of person, as far as social manners are concerned; that is the advantage of Eton and Harrow, and I have found that to be the case in regiments; probably, in a mass, the Eton or Harrow man would be considered a better style of man, but I consider him very inferior, generally speaking, as a soldier, compared to another man. A general officer would say, "I judge of the person by the look," but the other would, I think, beat him generally, in all the solid military acquirements.

1217. Mr. *Hardinge.*] How do you propose that your plan should be carried out?—By having the requisite number of buildings; Woolwich, also, might be very much increased; Addiscombe could furnish a certain number; but you might build another college, or enlarge this one. In France they have the requisite number to supply their army, and their army is much larger than ours.

1218. You are not in favour of amalgamating Woolwich and Sandhurst?—No, no more than St. Cyr and the Polytechnic. I think it would be a disadvantage, because a very large number is not good. I think a regiment may be too large or too small. I think there is a medium.

1219. Addiscombe only supplies officers for a portion of the Indian army, therefore how would Addiscombe be able to supply any men?—You may make half-a-dozen colleges. I mentioned Addiscombe as an illustration, simply; it is done in France and Prussia.

1220. Would you apply that system to the Indian army, and lay down a rule that every officer appointed to the Indian army should be educated at the military college?—I cannot enter into the Indian army particularly. I do not think our own army consists of that number of people that they could not be supplied easily.

1221. Sir *G. Tyler.*] It is not imperative that the cadets who enter Sandhurst should go into the army, is it?—No, I know several who are not in the army who were at Sandhurst; I believe one of the Queen's counsel, Mr. Chambers,

Lieut.-Col. *Adams.* was a cadet. There was one the other day who was going into the army, and he got a situation as a diplomatist instead.

1 May 1855. 1222. Supposing the college at Sandhurst was extended sufficiently to educate all officers, would it not be advisable that those who were educated there should enter into some bond that they would go into the army?—Yes, except with the clause that has been proposed, if there were a department other than a military department; but if it is to be as hitherto, it would be difficult to bind a person to enter the army: their prospects sometimes change.

1223. Do not you imagine that an education which is given, purely military, should be for that profession?—If it was given gratuitously, but it should not apply to those who pay a sum for their education; you could not restrict them, of course.

1224. What is the form of application for the admission of cadets; to whom does it go?—To the governor.

1225. Has he the entire appointment of the cadets?—He has the entire appointment of the cadets, but they are always taken in rotation; he does not keep a private list; it is kept in the office under the superintendent of studies, and it is perfectly fair: one is never put before another.

1226. There is not a military list and a civil list, is there?—No; they are placed according to the classes. Those wishing to come in at 125 *l.* are taken according to their turn, and those wishing to go to the other classes are taken in their turn.

1227. It depends entirely upon the time of application to the Governor?—Yes.

1228. So that the son of a military man has not an advantage?—No.

1229. *Chairman.*] With regard to the conditions of entering the senior department, do you think any improvements might be made as to the entrance into the senior department?—Yes, I think very considerable improvements might be made.

1230. Will you state what they are?—In the first place, I think no married officer should be allowed to enter the senior department. In the second place, I think no officer above the age of 24 or 25 should be admitted.

1231. Is there any other restriction which you would make?—I should think that the examination should be much more rigid; but then that must involve a certain promotion to the staff from it, otherwise no one would come; I think they ought to commence where the junior department leaves off, as it is done in other establishments; that the examination which passes out of the junior department ought to be the entrance examination to the senior department.

1232. What is your objection to receiving a married officer into the senior department?—I think that it interferes with the course of their studies, and also they are not so eligible as staff officers as single men; and it very often causes them to come to the college for reasons that are not strictly correct ones; they come there perhaps rather more for convenience than for study.

1233. With regard to the limit of age, would not that act hardly in the case of officers who had served abroad?—I think not; in all my answers I speak entirely with respect to the effect that it will have upon the public service; I consider that an officer, when he gets much beyond 25 years of age, certainly is not fit for any of the subordinate situations of the staff. I consider that a person ought, in order to be effective, to be a lieutenant-colonel before he is 30; and if you make a staff officer of him, he must be an active good-constitutioned young man, besides being a clever one. If he commences only after 25 years of age, he will be inefficient after all the trouble bestowed upon him, and you will be thrown back upon old inefficient officers just at the time that you want efficient ones.

1234. Practically, would it not preclude any officer whose regiment had been abroad from attending the college?—No, at the present moment the regiments of many of those who are at the college are abroad; one is in Canada, and two are in the Crimea.

1235. Mr. *Hardinge.*] Do you mean that an officer at 30 years of age is not sufficiently vigorous to be a deputy assistant quartermaster-general?—No, I say that he is; but an officer expects to rise to different grades; and if he commences at 30 years of age to be a deputy assistant quartermaster-general, probably he has the rank of captain only then, and before he gets into the staff he is an old man; a man on the staff ought to be very vigorous indeed.

1236. *Chairman.*]

1236. *Chairman.*] Is there any limit of age now as to entrance?—An officer must not be younger than 21 years of age; but there is no limit on the other side.

1237. With regard to the course of instruction, are you satisfied with the course of instruction at present pursued?—I think the mathematical part of it is far too high for the staff and line officers; it is unnecessarily high, and takes their attention from other subjects which are more useful.

1238. What do you think should be the course of education in the senior department?—I think there should be a course of mathematics, including mechanics; but conic sections, and all those things relating to the higher branches of trigonometry, are useless. Mechanics ought to be the highest branch in mathematics. There should also be a more extended course of military history.

1239. At present there is no military history taught, is there?—They used on the admission to be required to answer some questions; there is no course of military history now. I think that the standard of French ought to be very much raised indeed. I think that is one of the most essential studies for a staff officer particularly.

1240. Should it be taught at the college, or should it be a *sine quâ non* upon admission?—It should be to a certain degree upon admission, and a much higher degree should be obtained before he obtained his certificate.

1241. Should there be any knowledge of German?—Yes, there should be some knowledge of German.

1242. Is there anything else that you would recommend?—A course of surveying and fortification; fortification in all its branches; surveying in all its branches. Those are the only points, I think.

1243. Have you at the present moment a sufficient number of professors to teach what is necessary to be taught at the senior department?—Certainly not; there are only two. There ought to be, of course, one mathematical professor, teaching nothing else; then there ought to be one professor of military science.

1244. Is this with reference to what you propose to teach?—In any case there ought to be a separate mathematical professor, a separate French professor, a separate military science professor, and a separate drawing professor: I think the military history might be confided to the military science professor.

1245. Colonel *North.*] Are the senior department obliged to go through a riding course?—Lately they have been obliged to do so.

1246. Mr. *Hardinge.*] They are allowed forage for a horse, are they not?—Yes.

1247. Do they keep horses?—They are not allowed forage without they keep horses.

1248. Do they keep horses of their own?—I think they mostly keep horses of their own.

1249. Do they receive instruction in the riding-school?—Yes, on the troopers; there are 12 or 14 horses sent down from the cavalry regiment at Hounslow.

1250. With regard to fortification, is the standard now insisted upon in the senior department too low?—I can scarcely form an opinion, because I rigorously avoid going there; not being the fortification professor of the senior department, it would appear invidious in me to pay any attention to that subject with it.

1251. *Chairman.*] Who is it that teaches the fortification?—The mathematical professor, an extremely clever man, Mr. Narrien.

1252. Is the number of officers at the senior department full at present?—No; I think at present there are only 11 or 12 out of 15.

1253. Are there any impediments to the numbers being kept full?—Lately, since the breaking out of the war, there has not been a sufficient number to supply it; but even before that there was rather an objection to coming, in consequence of the entrance examination being made more stringent (it was, however, relaxed); consequently they did not keep up to the mark on the programme, and that was an objection. The examination, just as it was, was too difficult; and then, as there was no reward for studying deeply, of course a man would not waste his time in reading for subjects if he did not get a certain reward for it; I have no doubt that contributed to keeping the numbers at a low ebb.

1254. Do you consider the final examination satisfactory?—If the subjects were adhered to, and the standard increased, I should not object to it; as I have already

Lieut.-Col. *Adams.*

1 May 1855.

already mentioned, it goes on very well, except that the Board of Commissioners ought not to be constituted as they are now; it ought to be part of the Quartermaster-general's duty. The Adjutant-general, the Adjutant-general of Engineers, or the Instructor of Engineers at Chatham, and the head of the Woolwich school, ought to be obliged to come, as a part of their duty, on the regular Board days. At present the Commissioners come down merely as a matter of form.

1255. Practically, the examination is conducted by the professors of the college in their presence?—Yes; but as many of them have not more knowledge than any gentleman of common understanding, they are not competent to ascertain whether a person has actually come up to the mark, not being scientific men themselves.

1256. You stated that the temptation was not sufficient to induce officers to enter the senior department; what do you allude to?—I think that every officer who passes the highest examination exacted there ought to be, as a matter of course, put on the Quartermaster-general's staff. There ought to be a corps formed; they should be attached to their regiments; and as vacancies occurred, after having served a year with the infantry and a year with the cavalry, they ought, as a matter of course, to be appointed to the first vacancies that occur on the Quartermaster-general's staff, and progressively rise, according to the vacancies.

1257. You would confine all the appointments to the Quartermaster-general's staff exclusively?—Yes, exclusively.

1258. Colonel *North.*] Does the amount which the officers of the senior department pay now cover all their expenses?—No, it does not pay their forage; that is 40 *l.* a year; their expenses covered by the subscriptions of the gentlemen cadets.

1259. Do you consider that those officers of the senior department who had been there for a certain time, would be benefited by being attached to the Aldershott camp?—No doubt of it. If they had a little authority given them, they would have there to carry into execution many things which is the great practice after all. They would have to superintend the men, and direct the men of the line how to do their proper work.

1260. They would have an opportunity also of serving with large bodies of men?—Yes; it would be of the greatest advantage, I think.

1261. Could the accommodation for the senior department be increased at Sandhurst?—No, there would be no room for them; there must be extra buildings erected. That would, of course, involve extra expenses in several ways; because there must be a head, and they must have a separate detachment of sappers and miners, &c., and pontoons, and a variety of other things which they take advantage of now being united at the same place.

1262. Is pontooning ever taught?—Yes, it is a regular part of the instruction; they lay down every year the pontoon bridges, and take them up and manage them in every way like the common sappers.

1263. Colonel *Adair.*] Are they Blanchard's pontoons?—Yes.

1264. Colonel *North.*] Are cadets taught to swim?—No, they are not.

1265. They used to be so, did not they?—Not in my recollection.

1266. Would it be useful to have a swimming-master there?—Yes, I think it would. There would be many things extremely useful, but I think the education department ought to be supplied first. I think the most important part, and that which seems to be the most deficient, is the education department; and till that is supplied, I think the others must remain as they are.

1267. Would not swimming come under the head of amusement?—They have a racket court, and a fives court, and boats; very good men-of-war's gigs; and their bounds are very extensive. Swimming, no doubt, is a very useful art, but it would incur expense to have a swimming-master.

1268. *Chairman.*] There is no instruction in chemistry, is there?—No, but I think there ought to be; there used to be, but it was done away with on the score of economy.

1269. Is there any instruction in geology?—No.

1270. Colonel *Adair.*] It appears that the sum of 200 *l.* is allowed in the Estimates for the riding-school and expenses, and modelling room; is not that a very small sum to be applied to such purposes at Sandhurst?—There are certainly occasionally models made; but I suppose the amount is sufficient, otherwise they probably would have demanded a larger sum.

Lieut.-Col. *Adams.*

1 May 1855.

1271. Colonel *North.*] This is the item: "Expense of the riding school, and of instructing officers and gentlemen cadets in entrenching, sapping, and pontooning, with charges for materials, models, &c., 200 *l.*" ?—They only send in a requisition, and there is no objection made to it; it depends upon the governor. If I want so many spades, or pickaxes, or shovels, I merely make a requisition; they are immediately supplied, and charged to the account whatever they may amount to.

1272. Colonel *Adair.*] Supposing that, as professor of fortification, you are desirous of instructing the senior department in some of the new applications of war (for instance, with regard to the application of Dufour's system), what course would you adopt?—We have no model; we have plans, of course, of it.

1273. Supposing you wished to show the construction of intrenched camps after his system, what would be the course that you would adopt to procure the funds necessary for the purpose?—I should apply to the Governor, and say, "Such and such models are required, and I find that the estimate will be so much money," and I should request that it might be supplied. Probably, if the sum were not too large, it would be granted; if it was very large, probably there would be a Collegiate Board formed upon it, or they would refer it to the higher authorities; but in the case of sums not exceeding 30 *l.* or 40 *l.*, they would go to that extent at once upon my requisition.

1274. Mr. *Hardinge.*] If no officer were appointed to the staff who had not passed through the senior department, have you made any calculation what increase would be necessary to the establishment?—I think a very small number. As a rough estimate, I should think that a very small increase indeed would be sufficient. War is only an exceptional state of affairs; we have very few years of actual war in this country.

1275. In time of peace, what should you say the increase would be?—I should say that 30 officers would satisfy the whole demand.

1276. Colonel *Adair.*] Do you think it would be advisable to establish subsidiary senior departments in our great military establishments abroad? At Malta, Corfu, and Gibraltar there are greater facilities given for studying fortification in all its branches than in any other part of our dominions; would it not be possible to give the Commander-in-chief power to give certificates on that subject?—I do not think that in reality there is greater facility for studying fortification at those places. I have been at all those places, and I never observed that anybody would have understood the subject better by being there; they did not attend to it; you never can get one person out of fifty to enter into any studies whatever when once they have got their commissions. Even if the commanding officer happens to be a person who tends that way, they generally manage to turn the matter into ridicule, or laugh at it. The other regiments would do so next to them, so that it falls to the ground. Even with a general officer, I have observed in Ireland it is not taken advantage of as it ought to have been; the people make jokes of it. I do not think there is any facility for teaching fortification, except under a regular educational establishment.

1277. Mr. *Rich.*] Do you not think that the war is likely to give an improved military tone to our regiments, in respect to what you have now stated?—It is not valued; military education is but little valued by the greater part of the high military authorities. They consider after all, that whether a man is professionally educated or not, it will make not the slightest difference with regard to his qualities as an officer; that is the opinion in this country, but it is not the opinion in other countries. If the matter is discussed in the House of Commons, they immediately say, "Such a person is a very distinguished officer; he has been engaged so and so; why not put him on the staff?" Why I have known persons who have been engaged all their lives in war, and yet are not fit for staff officers in the least degree, although they are the bravest of the brave. They consider from having gained all their honours merely by being distinguished, that they can look down upon education more than another man would do. A staff officer is in France simply this: he is the cleverest man of the body. Of course being a man of the greatest attainments does not prevent his being equally brave as an uneducated man. If you insist upon a good education and pick out your men, the best men might be equally strong, and physically able to encounter fatigue, or to ride, or to do anything else; but they ought to be selected entirely for their heads.

Lieut.-Col. *Adams.*

1 May 1855.

1278. You would suppose that they possessed the other military qualifications, and then add that?—That can be tested at once; it is impossible in a time of war to select a man on account of his examination; you might select 20 men, and but five out of those 20 would be fit for the staff at all; if you educated every officer for the line, you would have of course a much greater selection of staff officers.

1279. *Chairman.*] Are you of opinion that the appointments to the staff should as a matter of course go to those who have been educated at the college?—Yes, solely.

1280. How would you weed those who got those appointments afterwards?—If they were found incapable of performing their duties they would be set aside. They are formed in time of peace; by and by such and such an officer is appointed to serve in war, and it is found upon trial that he does not possess some physical quality which is necessary for him to hold the appointment; when that had been proved, he would be removed to his station in the line merely as being not fit for the staff.

1281. Mr. *Hardinge.*] Military experience in time of war would be the only means of finding that out?—Exactly; but until then he would remain on the staff; he would have every qualification as far as could be tested.

1282. You would rest a man's fitness for the staff solely on his mental capabilities?—Solely.

1283. You would not consider his physical fitness for it?—He must have that decidedly, as well. I think that a staff man must have a very good strong constitution indeed; but you cannot tell that at first, except a man is lame, or is evidently in a consumption, or something of that sort. It would be very wrong to reject a man just because he happened to be small. We find that William the Third and Frederick the Great, as far as their figure was concerned, were not much to look at; but they were capable of undergoing any amount of fatigue.

1284. Mr. *Rich.*] You think that such staff officers as might not be capable of performing the higher staff duties, on the Quartermaster-general and Adjutant-general's staff, might usefully be employed as adjutant in a regiment?—The adjutant is a very inferior officer; it requires a peculiarly technical education; and very often a man may make a capital adjutant who would be a most unfit staff officer; that is, in the sense in which continental countries use the word, not in the sense in which it is used in this country. A staff officer in the French or Prussian army is a man of very superior character. Though he may be only a captain, he may be sent by the general commanding to supersede the colonel of a regiment temporarily, for a particular purpose; and the colonel would not have the slightest objection, because the staff officer, being a man of a superior order, he is recognised as such. But that is not the case with regard to our staff: a staff officer may be of a very superior character, or he may not; consequently, if I was told that such a person was on the staff, I should think that he had very good interest, but I should never say that he was therefore a very superior young man; and as to his superseding me in the command of a regiment, I should probably resist it as much as I could, because I should undervalue him.

1285. Have you ever contemplated the benefits which might arise from having an officer possessing higher functions in a regiment than the adjutant now has, and giving him certain duties similar to those which the staff bears in relation to the general officer?—The majors are expressly for that purpose. In regiments which are strictly conducted, the majors take all their duty in succession; and no doubt they render the commanding officer legitimate assistance. The adjutant is a subordinate person; you do see him constantly taking the command of a regiment, but his proper functions are to take care of the non-commissioned officers.

1286. Mr. *Hardinge.*] Is not it necessary that a staff officer should be able to handle and move troops?—Yes; but he requires to be attached to a corps. When he has finished his military studies he is attached to his regiment of course, because he cannot become a staff officer unless he has been in the army some time.

1287. Suppose that a captain goes to the senior department, and takes a high certificate there; would you post him to the staff at once?—No, I should attach him to a regiment of infantry for so long, and I should attach him to a regiment of cavalry for so long; when he had passed that time he would join his own regiment, and when a vacancy occurred in the staff he would be posted according

according to his seniority, and being upon the staff no one should be placed above him; he would rise in rotation in the staff corps. Lieut.-Col. *Adams.*

1288. Might he not gain experience in the handling of troops at Aldershott, or at any place where a camp might be formed?—It depends upon the scale. The handling of troops upon a small scale is a very inferior acquirement. Any serjeant-major in a very short time will drill a regiment uncommonly well; but with a large body of troops, on the other hand, it is a very difficult thing. I have known many officers who attend all the Prussian and French reviews, but you would never have known it from witnessing the capabilities of the greater part of them, except they had said so. 1 May 1855.

1289. Where you had 20,000 men brigaded together, might he not gain experience?—It would not be his vocation; the handling of the troops is the business of a general officer; his vocation would be to assist in doing the staff duties connected with the moving of the troops. It would be a great advantage to him, no doubt, to have such practice.

1290. Colonel *Adair.*] With respect to the senior department as a preparation for staff studies, with regard to the other duties of the staff, such as obtaining general information as to the capabilities of a country for supporting an army, and as to the varieties of the ground requiring particular proportions to the three arms, have you any means of acquiring that knowledge?—No.

1291. Would it be possible to form any scheme by which you might afford that information?—No doubt of it. It depends upon the sort of man that you appoint as military instructor; if he is good, of course he would lead the students to it; he would ride out with them; he would take his class out with him, and point out to them the different positions which might be taken up. When they reconnoitre a country now, they are obliged to state how many horses such a village would contain, and what resources there are, and what canals and rivers there are to cross. As far as taking up tactical and strategical positions is concerned, it is in abeyance, because the college cannot afford to pay people of sufficient ability to do that, their finances are so restricted. There was originally a General Jarry, a French officer, who used to teach that; but in those days they did not mind payments for such things. It is impossible to get a man of superior ability unless you give him sufficient compensation.

1292. This instruction would be conveyed by the officer of military science?—It would.

1293. He probably would carry his instructions to the higher branches of tactics, and illustrate the works of Jomini and others; have the German writers, such as Dekka, ever been treated in a separate department?— No, they do not go very far; they do not think of that. The professors have scarcely time to teach them what they do at present; that is owing to the low examination on entrance, and the paucity of instructors.

1294. Still you think that the higher branches might be supplemented?—No doubt.

1295. Mr. *Rich.*] Colonel Prosser stated that he thought Aldershott would be a better position for the senior department; do you concur in that?—Yes.

1296. Do you think that it would be a better than either Woolwich or Sandhurst?—I do not think that Woolwich would be advantageous at all. Their attention at Woolwich is directed to artillery and engineering; the officers indulge more in mathematics and the technical parts, whereas we go more into the surveying parts. I should think the facility of the camp at Aldershott would do great injury to the cadets; it never would do to take their minds from instruction. It is found, that if one day's suspension is given them, the next day their minds are so disordered that they cannot go on.

1297. Would you give the distinguished cadets of the junior department any priority of admission?—I think so; any person who was distinguished should immediately go from the junior department to the senior department, the same as they do in the French service. I think that is absolutely necessary, because some of them would learn twice as much as others in the same time.

1298. Would you hold out as a premium for application, the chance of being transferred to Woolwich?—Owing to the system of purchase in our army, it would be rather a disadvantage for a person to go to Woolwich; it restricts persons from getting on in the service. I think that the system of purchase in our service is one of the best institutions of the service, and favours the poor man at least as much as the rich man; so much do I think so, that I could

Lieut.-Col. *Adams.*

1 May 1855.

prove mathematically, to any mathematician, that the poor man is benefited as much as the rich man by the system of purchase; and the consequence is, that our regimental promotion is fairer than almost any other country in Europe.

1299. What does the first-class certificate state?—It states what the person passes in merely. We certify that So-and-so has passed such a department in the service, or a good or the highest examination in such-and-such a branch.

1300. Does it contain any specific recommendation?—No.

1301. *Chairman.*] With regard to the clerks of the college; there are four clerks; do you think that the work there is such as to require the whole employment of four clerks?—I think that, owing to there being three clerks, the major of the college is perfectly unnecessary; so far, it relaxes the work a great deal; and the work which the major does may be done by the clerks. Many of his duties are frivolous, and which any serjeant or clerk could perform.

1302. With regard to the general examination for commissions; are you present at the examination for those commissions?—No, I have nothing to do with them; but of course, being interested in the affairs connected with the advantage of the other establishment, I make myself acquainted with all about them.

1303. Are you satisfied with the entry examination?—Not at all; I think there is a choice there which I never would allow in anything. There ought to be certain things fixed upon at as low a standard as possible, and rigidly adhered to. Now in these examinations the contrary is the fact. With respect to universal history, perhaps you find a person who knows nothing about history whatever, and yet he gets through the examination; it would be much better to adhere to a small part of history, and know that well.

1304. Will you state to the Committee what ought to be the points upon which examinations should take place?—I think in arithmetic and mathematics, as far as the two first books of Euclid and trigonometry, and all the lower branches under that, as a matter of course; and arithmetic, and all the things necessary to perform those branches.

1305. Would you have algebra?—Yes; common equations, simple and quadratic equations, and the common use of logarithms to calculate in trigonometry, and all the branches necessary to carry out trigonometry; plane trigonometry merely to measure heights and distances, and all the preliminary branches of mathematics and algebra to enable a man to understand them and carry them out. I think a knowledge of French ought to be exacted equal to that which I recommended for the examination in the junior department; that is, a man ought to be able to take a volume of Wellington's despatches, and in a certain time, without a dictionary, write a French translation of it without any gross error, and, *vivâ voce*, to read Molière, or any other common comedy. Then, I think, he ought to have a limited knowledge of military history to a certain period; he ought, certainly, to be able to read a military plan; to understand what is meant by the representation of a hill, or a valley, or a river, on a common military sketch; and he ought to know, of course, the elementary art of fortification, a bastion from a curtain, or the front from the rear; he should be able to designate the different representations upon the paper.

1306. Colonel *North.*] Would there be any objection if the young men could be assembled at any public place in London by two or three professors, and be examined there, instead of going down to Sandhurst?—The only thing is this. The great reason of the excellence of the discipline of the college has been this, that it has been a long distance from any large town. For the same reason, therefore, I think the proximity to a large town would be more liable to tempt the young men to get into scrapes than in a village where they are so much under observance, and where any irregularity is so remarkable that it is noticed immediately.

1307. But half of them go down from London to Sandhurst to be examined?—I should think that they might be as easily examined in one place as in another, as far as that is concerned, excepting that it would take the professors away from their duties.

1308. They are not attending to their duty at the college, and examining the cadets at the same time?—No; but they must have time to go up to London and down again.

1309. Sir *G. Tyler.*] There would also be an expense attending the professors going to London?—Yes; besides, it is not necessary for many of the candidates to go to London at all; much to the satisfaction of their friends.

1310. Mr.

Lieut.-Col. *Adams*

1 May 1855.

1310. Mr. *M. Milnes.*] Will you state to the Committee the ordinary form of examination for the general commissions?—The young men immediately report themselves to the office; they are then measured as to their proper height, and they undergo a medical inspection. After this they draw lots by ballot, for the order in which they shall be examined; then they go to the Board-room, and immediately, according to their lots, they are examined *vivâ voce* first, and afterwards they write replies to written questions.

1311. How many days does the examination last?—It depends upon the number of candidates; usually, before the war time, they used to get it all over in one day, but since the war it has lasted two days.

1312. How long is the examination of each, individually, on the average?—That I cannot say; I am not one of the examiners.

1313. Who are the examiners?—Colonel Prosser, the lieutenant-governor, is one; the chaplain of the institution is another; and there is another public man who is one of the professors; and there is the French professor also. There are therefore three professors, and the lieutenant-governor.

1314. Who examines in mathematics?—Mr. Narrien, who is the mathematical master of the senior department.

1315. You have never been an examiner yourself?—No, I have nothing to do with the examinations in any way.

1316. Colonel *Adair.*] You referred to a General Jarry, who was a French officer; would it not be very advisable that the professors of foreign languages should have been officers in the armies of the respective countries, if possible?—No; because their time is entirely taken up with giving instruction in the language.

1317. Is not it exceedingly possible that many Frenchmen might not be able to give you the relative value of French military terms; for instance, those in Burns' Dictionary?—I think now so many technical dictionaries are published in all languages so fully, and people, generally speaking, have acquired so much knowledge of French, that such a difficulty would scarcely occur. I think most men would not find much difficulty in that respect, with the assistance of dictionaries.

1318. With regard to the instruction in the attack upon places, do you combine that at all with practical mining?—Yes, they actually mine; I have at this moment a gallery of some 100 feet; sometimes the students volunteer to go and work for themselves.

1319. Do you propose to explode it?—I did explode mines at one time, but there was an accident occurred to a serjeant of sappers; and as I think I can instruct with very small charges of powder just as well, since then I have done the same thing by exploding a pound of powder instead of 50 pounds, and there is no danger to the sappers who manipulate the mines.

Mr. *John Cunliffe*, called in; and Examined.

Mr. *J. Cunliffe.*

1320. *Chairman.*] WHAT office do you hold at the College?—I am one of the Clerks in the College; I am in the Pay-office.

1321. How long have you been there?—Ever since the year 1812.

1322. That situation gives you a knowledge of the expenses and of the payments?—Yes, I make up all the accounts of the college.

1323. Has not a quartermaster been lately appointed?—Very lately; he entered upon his duties in January.

1324. In the Estimate there is a sum for "Contingencies," of 1,207*l.*; have you any account of how that sum has been spent?—A list of the items is generally sent up along with the Parliamentary Estimate.

1325. Have you any copy of that account?—There is a copy of it at the college.

1326. With regard to coals, candles, oil, and lighting the college, how are the contracts made for the supply of those articles?—The coals are contracted for: a contractor enters into a contract to supply them for three years together; the present price is 30*s.* 9*d.* a ton. Candles are also supplied by contract; the present price is about 7*s.* and odd for a dozen pounds. The candles are only contracted for once a year.

1327. Mr. *Rich.*] Is the college lighted with gas?—No.

Mr. *J. Cunliffe.*

1 May 1855.

1328. It is stated in the Estimate that each cadet costs 1*s.* 5 ¼ *d.* a day?—Yes, that is the amount, I believe.

1329. Was that estimate formed by you?—I made the calculation myself; it includes all sorts of provisions, and that alone.

1330. It comes to 18 *l.* 8 *s.* for the 270 days?—Yes.

1331. The civil branch expenses amount to 6,020 *l.*; that is, for the professors, the masters, a housekeeper, a nurse, and 15 men servants. The whole of the salaries and wages amount to that sum; which, at your estimate of 180 cadets, would be equal to 33 *l.* 15 *s.* for each cadet?—That may be the amount,

1332. According to the returns that you furnished the Board, washing and tuition amount to 52 *l.* 3 *s.* per head?—I have not made that calculation; I merely reckon up, from the expense of preceding years, what the current estimate is likely to amount to. I make that my guide. I have not tried what it will cost for each cadet.

1333. How is this estimate of 1 *s.* 5 ¼ *d.* formed?—It is formed by reckoning up the whole amount of the provision account for one year, and dividing by the number of cadets. The clothing accounts form no part of the estimate; the cadets pay their own clothing.

1334. *Chairman.*] What examination is there of the provisions when they are delivered in?—The meat is delivered in every day, and I believe it is inspected by certain officers.

1335. Who are they?—I believe one of the captains is one; and I am not quite sure, but I believe the quartermaster is another.

1336. They inspect it when it is delivered in?—Every day.

1337. Is the same practice pursued with regard to the beer?—That is delivered in periodically; just as it is wanted.

1338. Is that inspected too?—It is tasted by the quartermaster.

1339. Is any officer present?—I do not know that any other officer is present.

1340. Are all the articles which are delivered in, inspected by the quartermaster alone, or by him and another officer?—I believe the quartermaster and another officer inspect the bread and meat; at all events the meat; they reject anything that is not approved of.

1341. Colonel *Adair.*] In the same way that the rations of a regiment would be inspected?—I believe so.

1342. Mr. *Rich.*] Do you know anything of the item of "Fencing, planting, and improvement of the college estate, 300*l.*"?—Eight common field labourers are employed by the college, and they do all manner of field work; two are paid as field carpenters, and they are paid rather better than the others; they cart, weed, plough, and hoe.

1343. *Chairman.*] Who superintends all these workmen?—There is a sort of foreman amongst those labourers; he receives very little more than they do themselves.

1344. Mr. *Rich.*] From whom do they receive orders?—From their own foreman, and he receives orders from the office.

1345. Who gives the orders from the office?—The lieutenant-governor.

1346. Of his own authority or by the governor's authority?—If the governor wishes to give any orders, he does so.

1347. Are the plantations ever thinned?—Very often.

1348. Who orders that?—The governor.

1349. What account is rendered of the thinnings?—They are sold, and the proceeds form a small fund; the wood fund, they call it.

1350. How is that wood fund applied?—It does not come under my observation. I do not pay the money; it is strictly in the Quartermaster's department.

1351. Does it go towards paying the wages of those labourers?—No, that is charged in the public Estimates. They pay various odd items. They pay for oats for the college horse out of that fund.

1352. Are any of the thinnings used up for timber for fencing?—Yes, I think so, and a great deal is used for firewood for the services of the college.

1353. *Chairman.*] Are there horses and carts belonging to the college?—There is a common horse and cart to do the work about the college estate.

1354. Have you any account of the income of the college; does that come through you at all?—Yes. Of course it varies every year, according to circumstances.

1355. Have

1355. Have you an account of the last year's income of the college?—I have a memorandum of the receipt and expenditure for several years.

1356. Can you give the Committee the details of the income of the college?—It is composed of the subscriptions of the cadets at various rates. Some pay 40 *l.* a year, some 50 *l.*, a few 70 *l.*, a very few 80 *l.*, and the greater number pay 125 *l.*

1357. There are some college estates, are there not?—Yes; they only produce about 61 *l.* a year; that is included in the general receipts.

1358. Who looks after the estate?—There is a part of the college estate occupied by the college milkman. From his college bills is deducted the rent regularly, and it is turned over to the Treasury, just the same as any other college receipt, and paid into the Treasury by the college agent.

1359. Before it is paid into the Treasury, is that bill deducted from it?—Yes, the amount is deducted from the person holding the land. A good deal is held in that sort of way; but then a good deal is held by officers of the college, who do not pay any rent for it.

1360. What is the rent of the land held by the milkman?—It is about 48 *l.* a year; and then there are other holders to a trifling amount.

1361. Is that 48 *l.* all paid over to the Treasury, or is any deduction made before it is paid?—The usual amount of income-tax which is allowed by law is deducted; that is, 28 *s.* a year.

1362. The bill of the college for milk is not deducted?—We pay him the balance. I am going to pay him a quarter's bill: he owes half a year's rent; from that I take the rent, and pay him the balance.

1363. Supposing the bill should amount to 26 *l.*; do you pay the whole 48 *l.* into the Treasury, or do you only pay in the difference?—The public receive the benefit of the whole of it.

1364. Sir *G. Tyler.*] You say that the college estates produce 61 *l.* a year?—Yes; but then there is other land held by officers of the college, who pay nothing at all for it; it is a privilege that they have. I do not know the number of acres.

1365. Mr. *Rich.*] Who are the officers who hold it?—I believe the two captains have each the privilege of grazing a cow, and I think the college major has a field to himself quite close to the college.

1366. Is that between the college and Sandhurst?—It is very near the college.

1367. *Chairman.*] At what price per acre does the land let there?—The college land which the milkman holds lets at 2 *l.* an acre; it is meadow land.

1368. The governor has some 13 or 14 acres, has he not?—Yes.

1369. Is that within his own enclosure?—Yes, immediately round his own house.

1370. The details of the expenditure are all sent up to the War Office with the annual accounts?—The accounts are made up quarterly, and regularly sent up every quarter to the college agent, to give in to the War Office for examination.

1371. Mr. *Rich.*] You are quite clear that this estimate of 1 *s.* 5 ¼ *d.* is the whole expense?—I made the calculation myself; I took it upon the actual amount of the provision accounts for the whole year, and the actual number of cadets for about 259 days.

1372. You state that the expense is for 180 cadets, at 1 *s.* 5 ¼ *d.* for 270 days; but by the evidence which the Committee have received, it appears that there are at present only upon the establishment 160?—The calculation in the yearly estimate is made for 170 cadets; and as the number of days is taken at 270, the average, of course, came to something less. The calculation I made would have come to something less had I taken the 270 days for the amount of the two Sessions, but in fact it is only 259; but as the number of days is taken at 270 in the printed estimate, that brings the daily expense to about 1 *s.* 2 ¼ *d.*

1373. Would it not be more exact that the return should be made of the preceding year, giving the exact number of days during which the cadets had been nourished, and the exact number of persons borne upon the establishment for that time?—I think it would be better to take the exact number of days as nearly as could be done, so as to give the actual expenses.

1374. Then to arrive at that, you must divide it by the exact number of cadets borne upon the establishment at present?—Yes. The fact is, that the yearly estimate as printed is made out upon the experience of the preceding year.

Mr. *J. Cunliffe.*

1 May 1855.

1375. *Chairman.*] Will it fall short this year?—I dare say it will; provisions are high.

1376. You do not make any allowance for the prices rising?—We can only make a guess at it in making out the estimate at the very best. The experience of the preceding year is always taken.

1377. Colonel *Adair.*] There is always an account current at the end of every year between the War Office and the establishment?—Certainly.

1378. Mr. *Rich.*] In the antecedent years, the estimate for the support of the cadets was less?—That is from the reason which I have stated.

Veneris, 4° die Maii, 1855.

MEMBERS PRESENT.

Sir Francis Baring.	Sir George Tyler.
Colonel North.	Mr. Monckton Milnes.
Mr. Rich.	Mr. Hardinge.
Colonel Dunne.	Viscount Monck.
Lord Lovaine.	

THE RIGHT HON. SIR FRANCIS BARING, BART., IN THE CHAIR.

Lieutenant-General Sir *John Burgoyne*, called in; and Examined.

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

1379. *Chairman.*] YOU were not at Sandhurst yourself, were you?—No, I was at Woolwich.

1380. How long were you there?—I was there nearly two years.

1381. In what position?—As a cadet.

1382. Has your service in the Crimea lately given you an opportunity of seeing the practical working of the staff as it now stands?—Yes.

1383. The Committee are anxious to have your opinions as to how far the present education at Sandhurst in the senior department is likely to be of value for producing good officers for the staff. Are you of opinion that it is an advantage to have an establishment where an education is given, with a view to forming good officers?—My opinion is, that the first ingredient for a staff officer is to be a good soldier; that a selection by collegiate examination would not be advantageous to the service; that the first quality is being a good soldier, a good regimental officer understanding the movement of troops, and the treatment of soldiers. If there can be added to that, theoretical knowledge, of course it is a very great advantage.

1384. Is it your opinion that it is an advantage to have some establishment where that theoretical knowledge is provided, or would you leave it to the individual officers to obtain it where they could?—I should think if a college is well organised it would decidedly be the best, because the individual officers do not know where to get the information; whereas they could get it there on the best principles and with the greatest facility.

1385. Are you of opinion that such an establishment as Sandhurst well conducted, would be an advantage to the service?—Yes, of very great advantage.

1386. Are you at all acquainted with the course of the studies at Sandhurst?—I do not know the particulars of them; I presume it is much the same as at Woolwich and all other places of that kind, consisting principally of mathematics, modern languages, drawing, fortification, and artillery, and other studies particularly belonging to the military service. As regards the staff in the Crimea, I may say with reference to the opinion I have given of a good soldier being the first foundation for a staff officer, I do not think there is a single instance, to the best of my recollection, where any theoretical knowledge which a staff officer could have acquired at a college could have been of any peculiar service in removing the inconveniences that have been notoriously felt by that army.

1387. Following up the education at Sandhurst, will you refer to Questions 383 and 384, and state to the Committee whether you are of opinion that those

are

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

are points which ought to be taught, or whether there are any there which you think might be spared, or are there any points which you would wish to add?—I think the whole of these, as regards elementary knowledge, are very useful; but when you come to professional knowledge, like fortification, I think in general they are very imperfectly taught and studied at these establishments; I think they might be very much improved by a system of lectures. There is a great deal of time lost in the way in which fortification is taught, not only at colleges, but also in books; they teach it by rule rather than on principle.

1388. You would teach it to a certain extent?—I would give lectures upon it rather than teach it in any more formal manner.

1389. Do you consider that the course of mathematics is good?—That is all very good, I think, and the drawing is very good, and the modern languages particularly so.

1390. Is astronomy of any advantage?—It is merely one part of general knowledge that is useful to everybody; not particularly to a military man; sometimes it is of use to an engineer in surveying. With reference to the staff, I may state that there are three different classes in the staff; there are the adjutant-general, the quartermaster-general, and the personal staff. They require very different qualifications. The adjutant-general particularly requires the elements of a soldier and the knowledge of troops, the manœuvres and movements of them, and the general management of them. The quartermaster-general, who has to do with the positions of the army, encampments, marching, and movements, is the one who requires most of this elementary knowledge, mathematics and drawing, and studies of that kind. The personal staff is quite a different class again; you require a young man of very active habits; and I should say that a man accustomed to ride across a country, provided he was intelligent, strong, and active, would be the best aide-de-camp which an officer could have. The military secretary again requires a sort of general education in the classical department, to be able to write letters, and analyse subjects brought before the general, and descant upon them as far as is necessary, and assist the general in the communications made to him.

1391. With regard to the personal staff, do you not think that it would be an advantage to an officer to have scientific knowledge?—Most undoubtedly. After all, he is commencing his career as a military man, and all his scientific knowledge would be of great service to him afterwards; he generally goes to the quartermaster-general or the adjutant-general, according to his particular turn.

1392. It would be one of the best schools for the higher positions in the staff, if to the knowledge required for the personal staff he was to add professional knowledge?—It would be a great advantage, in addition to other attainments.

1393. Have you considered a question which has been suggested to the Committee, that it would be an advantage for the encouragement of the studies at Sandhurst, and also for the public service, that all the students of the senior department should form a corps out of which the adjutant-general's and the quarter-master general's staff should be selected?—I should not think that a good system. I would rather select from the general body of the army; of course, officers who had attended to those studies and had gained a certain reputation, would naturally be preferred by the generals, but I think it would be very injudicious to restrict the selection of the staff to that description of officers. Many, by studies, get a great deal of knowledge of that kind, who would afterwards in the field, probably, be inefficient altogether. An officer may take to study by his own will, after he is, perhaps, 24 or 25, after he has obtained his commission, without going to college, and it would be injudicious to deprive a general officer of the power of selecting such a man as that.

1394. That goes upon the supposition that he acquires the knowledge?—Yes; that goes upon the supposition that he acquires the knowledge. But I do not think you should preclude a staff officer being employed, although he has very little of this knowledge. You may have excellent staff officers who have not much theoretical knowledge.

1395. It has been suggested to the Committee that it would be advisable to have an examination and a certificate before any officer was allowed to be upon the staff; do you see any objection to that course?—Yes; I think many officers might make excellent staff officers who could not go through an examination of that kind. I think general recommendations from the officers under whom they had served would be of more value than examinations, and sometimes an exami-

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

nation is fallacious even as to the very qualities which you want to bring out, and some men cannot stand an examination, who are very able men.

1396. In the course of your service in the Crimea you must have seen a good deal of the French staff there; there is a corps of French staff officers, is there not?—I have always understood the French staff to be an entirely distinct corps; they come from college, and remain on that staff for ever; they are permanent situations till they become general officers, when they are eligible for all sorts of service; I do not think it a judicious system.

1397. Does that include the personal staff?—Yes, that includes the personal staff; all the staff, even the aides-de-camp, are selected in that way. But they have a kind of evasion of that principle, for they have the officier d'ordonnance, whom the general appoints himself; he is very much like what our aides-de-camp are.

1398. He may be selected from any officer that the general chooses?—Yes.

1399. Mr. *M. Milnes.*] Did you ever hear a French officer complain of the limitation of the choice of the staff to the état-major?—No, I have not.

1400. Colonel *North.*] With regard to our staff in the adjutant-general's department, and also the personal staff, they require more military knowledge than anything else; but would you have any examination at all of those who are to enter the quartermaster-general's department?—No; I do not see the advantage of an examination. I think the inquiry of the general would be sufficient to gain the object. I believe Lord Raglan, when the army was at Varna, obtained by a memorandum sent round the army, a knowledge of all the officers who had been at Sandhurst, or who were esteemed in any way qualified for the staff, and from those persons he selected a great many staff officers.

1401. Do you think it indispensably necessary for an aide-de-camp that he should not be appointed until he understood the manœuvres of troops, in order to carry an order from his general strictly correctly?—Certainly.

1402. Sir *G. Tyler.*] Were there several officers selected by Lord Raglan who had gained certificates at Sandhurst?—Certainly there were; in the quartermaster-general's department particularly.

1403. *Chairman.*] Were they selected before Lord Raglan left this country, or afterwards?—I think they were selected at Varna, when the troops were assembled there; I do not know the particulars, but I have a strong impression that that was the case.

1404. Mr. *Rich.*] You stated that you thought it would be advisable to introduce a system of lectures; do you mean practical lectures in the field, with regard to fortification?—No; *vivâ voce* lectures upon models.

1405. Would you have the same lectures applied in the field for the cadets?—Yes; what you can do on the ground itself is of very great advantage; and I think it would be an advantage if you could manage to transplant a portion of the officers for a certain time to Woolwich to learn a little artillery practically; and to Chatham, to see the field fortification and sieges.

1406. You would recommend that they should conclude their studies by going to Aldershot; from Aldershot to Woolwich, and from Woolwich to Chatham?—Yes.

1407. You stated that there were three branches generally in the staff; the adjutant-general's, the quartermaster-general's, and the personal staff; you stated that generally the personal leads to the other two?—Frequently; not generally.

1408. Then would there not be almost the same necessity that those officers intended for the personal staff should have the elementary and theoretical instruction that is necessary for those intended for the quartermaster-general's staff?—Yes; those who went on to the quartermaster-general's staff probably would be selected from those who had such elementary knowledge.

1409. Would you recommend some regulation to restrict the selection of the staff by general officers within certain limits?—No, I have a great objection to laying down any rule; I would rather leave it discretionary.

1410. You would not require that an officer should have had certain experience on foreign or colonial service, or certain previous knowledge evinced by his certificates from Sandhurst in the senior department?—I would rather leave it discretionary. I think the personal staff, practically, is always very good; I have scarcely ever seen an instance of a man, as an aide-de-camp or a secretary, who was not a good one. A general officer usually selects an aide-de-camp from his friends; but he very rarely selects a man who is not competent. I may mention that, with regard to Lord Raglan's staff, which is composed

composed principally of his relations, it is a most excellent staff; I do not think there could be a better staff in the world than he has: it is most perfect.

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

1411. With regard to the qualifications for a staff officer, is not military capacity a very rare qualification?—No, officers frequently obtain staff appointments for distinguished services.

1412. Does not the prompt adaptation of knowledge to the exigencies of the moment, require a quick, experienced, and instructed mind?—I do not recollect any particular instances of that kind; general good education would be of service.

1413. Colonel *North.*] A great deal has been talked about our staff officers not speaking French; do you find, among the French staff officers, more in proportion who speak English?—No; there is scarcely an officer who can speak English; English is very uncommon with the French officers. But you must set against that that more of them know German and Italian, and other languages.

1414. Sir *G. Tyler.*] Do you think it desirable that a staff officer should also know German?—Yes, there are so many useful military works in the German language; the military establishments of the Germans are very good indeed.

1415. Mr. *Hardinge.*] Did you find that the officers on the staff at the Crimea who had been educated at the senior department at Sandhurst were practically better and superior to those who had not been educated at the senior department at Sandhurst?—I do not know precisely; I could not distinguish one from the other. I knew very few, but, generally speaking, I could see very little distinction between them, whether they were at Sandhurst or not.

1416. Some suggestions have been made with respect to a staff corps; would there not be, in your opinion, some objection as regards the slow promotion in such a corps?—I do not like the idea of a distinct corps at all to serve as staff officers.

1417. Would there be any means of getting over that objection with reference to the slow promotion?—I do not understand how the promotion would be regulated.

1418. Mr. *M. Milnes.*] Have you found in the late campaign any disadvantages to result from an imperfect knowledge of the French language on the part of the English officers?—On the contrary; I have been rather surprised to find, in communicating with French officers in company with British officers, that almost universally the British officer could converse with them.

1419. The British officers could converse with them sufficiently for the practical purpose of mutual operations?—Yes; my knowledge is more from being associated with staff officers and with the officers of the engineers than the other officers; it seemed with them to be almost universal.

1420. You stated you would recommend that the regimental officers of the line generally should be better instructed in fortification; what do you think would be the best means of producing that result?—I did not say that every officer of the line should be better instructed, because a great many of the officers of the line have no instruction at all in fortification; but where they do study fortification, I think it might be taught better than it usually is, or than is to be acquired by books; I think judicious lectures would point out principles rather than rules.

1421. How far on active service is it of advantage that officers of the line should understand the principles and operations of fortification?—It would be a great advantage if the officers generally of the line, in a siege, for instance, understood the principles of fortification; many of them were quite at a loss during the operations in the Crimea to perform the duties that are really required to make the best use of their position, which they would understand better if they knew more of fortification; but it is hardly to be expected that every officer of the line should attain much knowledge of it.

1422. Did you find that the French officers of the line generally seemed to know more about fortification and the actual position they were in?—I am not sufficiently acquainted with their service to be able to say whether they were or not.

1423. In combined movements of the artillery and the line, do occasions occur in which the success of the movement may very much depend upon the officers of the line fully understanding the operations of the artillery?—Except

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

as regards the general officers, I do not conceive that it requires any very particular knowledge upon their part. The general officer, of course, would be required to know how best to combine the movements, and see that the artillery took up the best positions for the object which they had in view; but the regimental officers would not be required to know that.

1424. The question referred rather to carrying out the general designs of the general officers, whether it is important for the success of the operation that the regimental officers should understand the operation of the artillery?—No; unless a regimental officer is detached, and has a separate command of artillery with him, then he ought to take the two always into consideration, and he ought to understand the best application of both; but in general he would have nothing to do with it at all.

1425. Has not it occurred in the late operations that officers of no very high rank have had detachments of artillery combined for particular purposes?—No, I do not recollect any instance of it.

1426. Lord *Lovaine.*] Practically, the artillery invariably acts independently, does it not?—Practically the general commanding has confidence enough in officers of artillery to leave them to make the selection of their position.

1427. If the artillery did not do so, they would be practically committing a great error?—They know generally what the object of the general commanding is, and they act accordingly; they usually do what is best.

1428. Mr. *Rich.*] As a general rule, an officer acquainted with the various arms of the service, would be more competent to command than one acquainted with only one arm?—Yes.

1429. Have not the Ordnance officers felt it as a grievance that they have never been employed in the command of divisions?—Perhaps so.

1430. Colonel *Dunne.*] For what reason did Lord Raglan make a selection of those officers in the army for the staff, from those men who had been educated at Sandhurst?—I only know it from conversation; but I imagine it was from having a general impression that officers brought up at Sandhurst would be more likely to have that knowledge which is useful more particularly for the Quartermaster-general's department, such as drawing and mathematics.

1431. Do not you think that for any officer to give a description, even verbally, of ground, it is necessary to have a knowledge of the way of drawing that ground?—Certainly.

1432. Even men accustomed to study ground in hunting have an advantage?—Yes.

1433. The officier d'ordonnance is not an officer always attached to a general officer, is he?—I do not know exactly what regulates it; but my impression is, that generally speaking, he is a personal friend of the general; he takes his friends to join him as our generals take aides-de-camp.

1434. Are they allowed to have them in time of peace?—I do not know.

1435. Is not that officer merely employed in carrying messages, and known as a recognisance; is he not a mere messenger to carry orders?—I should think not. I do not know sufficiently what his duties are, I imagine that the general would employ him in any way that he thought useful, and I think it likely that the officier d'ordonnance would be employed more confidentially than an officer from the staff corps.

1436. Would he be employed in time of action?—Yes, I think so.

1437. Is not he selected merely because he is a personal friend of the general?—That I cannot say; but I am sure that a general would not appoint any one who was not of use to him.

1438. You think that for a staff officer there is no necessity for any superior class of information?—I think it very desirable, but I would not limit it to any collegiate examination or qualification; but I would leave it to the selection of the general officer. I should be quite sure that he would select officers who had made themselves eminent in various ways.

1439. Our aides-de-camp are selected in the same way?—Yes, entirely at the discretion of the general officer.

1440. Have not disasters occurred in several wars from the mistakes of the aides-de-camp?—Not in my recollection in any way; on the contrary, I think that, generally, they have performed their duties in a most distinguished and excellent manner.

1441. Have they anything more to do than to carry the orders they receive?—Not

—Not in that particular duty; of course they carry the order which they have received.

1442. Is it not generally written, if possible?—Sometimes it is written, and sometimes verbal. There have been instances of staff officers taking the liberty of altering the order, or giving orders that they were not duly authorised to give; and sometimes that has been done with very great advantage.

1443. An officer who presumes to do that must be supposed to have very superior knowledge, so as to be able to see the alteration of circumstances which justifies that alteration?—Exactly. But I think that is more gained by experience than by instruction.

1444. In general, would not a non-commissioned officer suffice for carrying messages, if he were intelligent?—He might, if he were intelligent. I dare say the French état-major, being always selected on account of their education, despise others who are not so selected.

1445. On the whole, you conceive that the senior department at Sandhurst is of very little use?—I think it is of the greatest possible use. I think that there are a great many officers who would wish to acquire a theoretical knowledge, who would take advantage of the senior department, and acquire that knowledge with the greatest advantage, much better than they could do at any other establishment.

1446. Those advantages which are acquired at Sandhurst being positive advantages, so far as the service is concerned, would you not require similar acquirements gained elsewhere on the part of other officers whom you would put on the staff?—I would not make it an absolute requisite that they should pass an examination for it.

1447. *Cæteris paribus*, without those acquirements they would be inferior?—Yes, but I can conceive of officers being very superior without having those acquirements; *cæteris paribus*, the officer possessing those acquirements would be by far the most valuable.

1448. On the whole, would you not be inclined to require in the case of officers appointed to the staff, an education such as that gained either at the senior department, or a similar education gained elsewhere?—No, I would not, as a *sine quâ non*.

1449. But as a general rule?—As a general rule, it should be always acknowledged as a great advantage, I think.

1450. Hitherto all appointments on the staff have been made by the general officers without any obvious attendance to such requirements?—That I do not know. In the case of Lord Raglan, the selection was evidently made with the intention of taking advantage of that particular class of officers who had those acquirements.

1451. Do you know any other instance of such a reference to education amongst officers in staff appointments?—I do not.

1452. During peace, substantially the appointments to the staff are not made, so far as your knowledge would go, with reference to military qualifications?—I do not know that it is so.

1453. Lord *Lovaine*.] Do you think that it is possible to give some instruction to officers after they have joined their regiments in the great garrison towns; for instance, to give them some rough knowledge of the practical part of fortification?—It would be very advantageous if such a system could be devised. Lord Frederick Fitzclarence introduced it at Portsmouth, and I think with a great deal of success; he took a great deal of interest in it; he procured lectures to be given; I think some officer of engineers even gave information to those who seemed inclined to follow it up. Lord Frederick Fitzclarence encouraged it generally.

1454. Do you not think that that system might be carried out?—It would require a great deal of consideration.

1455. *Chairman*.] You stated that lectures upon the general principles of fortification would be of great advantage; do you not think that at Malta some lectures might be delivered on that subject, which young officers might be glad to attend?—Lectures are only valuable if they are given by persons who are particularly qualified to give them, and there are not many persons who are so qualified. It would be a great chance that persons could be met with at a foreign garrison.

1456. Lord *Lovaine*.] In the practical parts, such as throwing up earthworks, sap,

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

sap, and trenches, would it not be possible in such places as Dublin and Cork, to have a school?—It is not unusual to exercise the troops; and, of course, then the officers have an opportunity of affording and obtaining information in field duties in engineering.

1457. Could it be enforced as a practical part of instruction?—I doubt whether it could, taking into consideration all the other duties; it must be very much at the discretion of the general. Lately, with Lord Hardinge's consent, a certain number of detachments of the line with officers were sent to Chatham, and obtained information upon field engineering attack and defence.

1458. Was that with your approval?—I approve of the system; I think it very useful indeed.

1459. Do you think that now the Horse Guards have taken into their consideration the necessity of appointing a better class of schoolmasters, something might not be done in that way for the instruction of the officers also in mathematics?—Where they are able men, as the one to whom I have referred at Portsmouth, they might instruct the officers also, but the course of instruction given to the men by the ordinary schoolmasters, I imagine, would be rather beneath the qualifications of an officer.

1460. The requirements insisted upon in the case of schoolmasters might be very much raised?—You must give higher salaries, and then you might do it, perhaps.

1461. Do you think it would practically be the means of spreading an increased desire for information with respect to fortification?—I doubt whether you could raise a system of that kind that would give more than some merely technical information, which would not be of any great value. I think if there were certain places open, like Woolwich and Chatham and Sandhurst, where those matters would be well arranged, and officers had an opportunity of going to them, they would be sure to obtain the information.

1462. Is it not the case that in all other armies the officers of the staff are obliged to attend for a certain time every branch in the service?—I think that in the French service they serve a certain period in the infantry and the cavalry, and I think in the artillery also.

1463. Do you not think that it would be a very great advantage if an officer was allowed, on putting his name down, to be attached for a certain time to each arm of the service?—It might advance the officer; but I imagine that it would be very difficult to regulate it upon a system; I think that some officers upon principle have done that voluntarily.

1464. Might not the attainment of a knowledge of the different branches of the service be made more easy to the officers by attaching them to the respective branches for a short period?—The French go to work more systematically than that; they make the officers serve a certain time in the ranks.

1465. Mr. *Rich.*] You mentioned that officers, in order to acquire a better knowledge of the service, have exchanged from one branch to another; they could only do so at considerable expense to themselves, and probably loss of promotion?—If it affected their promotion they would not do it.

1466. Colonel *North.*] Is not it frequently found that an officer who is theoretically a good officer, is practically a very bad one?—I can conceive of a bad officer having a great deal of theoretical knowledge; I think that a practical man is the best officer.

1467. Sir *G. Tyler.*] You think that there are other qualifications necessary besides theory?—Yes; a good soldier is the first consideration for the best officer.

1468. He must possess a good constitution?—Yes, and activity also.

1469. With regard to the desirableness of having men educated in some measure for the staff, do you think that an extension of the senior department at Sandhurst would tend to effect that object?—It would be desirable to have it of sufficient extent to meet every want of the service, under the sanction of the Commander-in-chief.

1470. Lord *Lovaine.*] The exigencies of the regimental service being first attended to?—Of course the Commander-in-chief would consider that there should be no limit on the part of the college, I think.

1471. Mr. *Rich.*] You would recommend such an extension, not with a view to the sole application of such officers to the staff, but to the diffusion of a scientific military knowledge amongst the army generally?—Certainly.

1472. *Chairman.*]

1472. *Chairman.*] You were asked whether you did not think that it would be an objection to having a staff corps, that the promotion would be very slow; are you aware whether the promotion is slow in the French staff corps?—No, I am not aware; but the promotion is so little restricted in the French service, that there is the power of promoting any officer, at any time, who is thought worthy of it.

1473. Promotion does not go by seniority in the French service, does it?—It does to a great extent, but it is much more discretionary than in our service.

1474. Mr. *Hardinge.*] It is a mixed system, is not it?—Yes, it must be so, because the officers rise to different ranks at such very early ages.

1475. *Chairman.*] Did you find that the officers of the French staff in the Crimea were older than ours, generally?—No, I do not think they were, not according to my observation.

1476. Is it compulsory upon the officers in the French army to retire at a certain age?—I believe so, at a certain age in certain ranks; if in certain ranks they do not get promotion at a certain period of life; they are positively struck off; they are put on retirement.

1477. Colonel *Dunne.*] Are not the duties of the quartermaster-general's or adjutant-general's departments totally neglected at the military college; are there any recognised books in the language which would teach those duties?—In the adjutant-general's department it is a system of regulations. In the quartermaster-general's department it is more military study. There are few particular books on the subject. There was one, written by General Jarry.

1478. That is not used now, is it?—I fancy not, and I do not wonder at it. If I recollect rightly it was very diffuse and minute, and scarcely useful for general readers.

1479. Are you speaking of the published books of General Jarry, or of the manuscripts?—I remember many years ago looking at some of the manuscripts, and I thought that they were too minute and dry; too much according to rule, and too little according to principle.

1480. Then there are no books in English?—I do not know of any in any language on the particular duties of the quartermaster-general's and adjutant-general's departments, distinguishing those particular branches.

1481. Colonel *North.*] The adjutant-general's duties are entirely practical, are not they?—Yes, they relate to the regulation, drill, exercise, and movement of the troops.

1482. Colonel *Dunne.*] Are you acquainted with Thiebault's work on the Etat Major?—Yes, I recollect the book.

1483. Mr. *Hardinge.*] It has been suggested that no officer should be appointed to the staff who had not passed through the senior department; would not that exclude officers who were in the Queen's regiments in India, because a young officer may go out and be 20 years in India. In that case, how would he be able to get on the staff?—I object to the system altogether of selecting exclusively from any particular set.

1484. Have you any observations to make to the Committee with regard to the examinations for commissions in the army?—I do not like the system of examinations either; I think it is often very fallacious.

1485. Do you think that there ought to be no examination at all for the first commission in the army?—I think to have had a respectable education is very necessary.

1486. Do you not think it desirable to test it in some way?—To some degree, certainly.

1487. Are you at all acquainted with the present system of examination for commissions?—No, I am not.

1488. *Chairman.*] Will you just read Question 487, and state whether you approve of the course of examination there recommended?—I should say that it is too high a great deal. If you examine officers for a first commission in algebra, the person who examines them, if he chose, would reject 9 out of 10, or 19 out of 20. It is very few who could go through it; the examination depends so much upon the character of the examiner. I should be very sorry to attempt to pass an examination in any one of the branches stated here, if the person tried to puzzle me. For instance, in examinations in geography they will ask you the name of a river in Nepaul; I could not tell that.

1489. That is an objection which may be made to any examination?—That

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

is one of the great difficulties in an examination; if the examiner happens to be a little out of humour, a man would have very little chance. I would rather take a recommendation, and written questions and answers, and give the person a little time to consider; the *vivâ voce* examination should be very slight.

1490. If they are not able to answer *vivâ voce*, those questions are put upon paper, and they are left to answer in a certain time?—Still those questions might be very difficult; and even if they are not difficult, a person may not be able to answer those precise questions, though he could answer others a great deal more difficult.

1491. Mr. *Rich.*] Would you do away with examinations altogether?—I think examinations really must be considered more or less capricious.

1492. Sir *G. Tyler.*] Do you think that a young man entering the army, having what is called a gentlemanly education would be sufficient?—I think so; I would have it by recommendation rather than by certificate.

1493. Mr. *Rich.*] From whom would the recommendation come?—From the parties who educated them.

1494. Would not the recommendation of the person who had educated a boy be open to suspicion?—I do not think it would, if from respectable persons.

1495. Do you not approve of the examination of boys for the artillery?—No; the examination itself is very fallacious.

1496. It is tested by their having gone through the academy?—It is tested by their having gone through the academy; that is the best foundation you have, and the certificates of officers and professors.

1497. If you required a solid education for officers of the army, do you think you would be able to ascertain that more correctly by observing their course through a military academy?—I think the educational qualification for an officer entering the army might be very slight; I would have them write decently in English from dictation, and have a certificate that they have been at a certain school for a certain period.

1498. Do you not think that while the education of the whole country is progressing, it would be very mischievous that a certain stimulus should not be given to that of officers of the army?—No; I do not see clearly the great advantage of education, pushed to a great extent, being required as absolutely necessary.

1499. Do you not think that uneducated officers are likely, from mere want of occupation, to fall into expenses in country quarters or garrison towns?—No, I do not think so; I think that where studies are pushed too far, it might lead to idleness and dissipation, as much as where they are not.

1500. Within limits, would it not tend to the good discipline and the general advancement of the tone of a regiment, that the officers should have received a cultivated education?—I do not recollect finding that the irregularities of the officers arose from want of education.

1501. Generally speaking, is not the conduct of the artillery and engineer officers highly regular?—I think generally it is very regular.

1502. Speaking within the limits of the profession, would not you say that the officers of the artillery and the engineers get into fewer scrapes than those of the other branches of the service?—I think they have less temptation; they enter in a different way to what the officers of the army do. Many of the officers of the army have great means, and they enter into very heavy expenses in consequence; but that is not the case with the officers of the engineers and the artillery; very few of them are men of much fortune.

1503. Sir *G. Tyler.*] The officers of the artillery and the engineers are constantly obliged to keep up the education which they have previously received at Woolwich?—They are obliged to do so practically, and generally they have a great desire to do so, because it tends to enable them to rise in their profession.

1504. As regards an infantry officer after joining the army, his general knowledge is confined to the mere duties of his regiment, is it not?—Yes; his professional employment leads to little more for a long time.

1505. *Chairman.*] You stated that you think the examination for general commissions, as stated in the answer to which your attention was directed, is too difficult; with regard to writing English from dictation, you have no objection to that?—No.

1506. Would you say that a boy from 15 to 16 years of age, should not be obliged

obliged to have some knowledge of Latin, or French, or German?—It would be very useful to him indeed.

1507. Do you consider that a young man of 15 would be considered to have had a decent education who has not even an elementary knowledge of French, or Latin, or German?—The principal use of those languages is the teaching of grammar; you can scarcely learn grammar by your own language.

1508. Did not you state that you would wish that the party should be pretty fairly educated?—Yes; I consider that he should have a reasonable education.

1509. Looking at the state of education at the present time, do you conceive that a boy of 15 or 16 can be said to be decently educated who is utterly ignorant of either Latin, or French, or German?—No; I should call him very badly educated if he did not possess some elementary knowledge of one of those languages.

1510. He would hardly come under your category of a decently educated boy?—No.

1511. The first four rules of arithmetic are not very far; would you allow them?—Yes.

1512. Would you allow fractions?—I think that is going a little too far. I would not make it an absolute requisite.

1513. What do you say as to logarithms?—Logarithms would be too hard, and simple equations are quite beyond them to acquire absolutely. I think by attempting to acquire all those things, you get a very slight knowledge thrown into the mind, and it all disappears immediately afterwards; it would not be lasting at all unless they were very studious boys.

1514. Mr. *M. Milnes.*] Is not the effect of the training and examination of the artillery and the engineers such as to make it almost indispensable that any man serving in those corps should have undergone a considerable amount of mental discipline?—Yes, a great amount of it.

1515. If that is so necessary in that service, why do you think it can be so reasonably dispensed with in the ordinary regiments of the line?—They cannot do their duty without it, but the other officers can do their duty without knowing vulgar fractions, and still more without knowing logarithms and algebra.

1516. Besides the mere technical education required for the artillery and the engineers, is there not a general training, the effect of which is to raise their intellectual level very much above that of the rest of the service?—It raises their acquirements, not their intellect; it certainly raises their acquirements; but the artillery and the engineers absolutely require those studies, and they have those studies for two and three years, working seven or eight hours a day at it. You need hardly apply that to the whole of the army.

1517. Without applying it to the whole of the army, do you not think that something might be done; whether the information be technical or professional, the effect of it should be that a man who enters the service should enter it seriously as a profession, and not merely as an amusement?—I think that a good general education, such as you could get at any public school, would be quite sufficient; but this kind of examination would require particular and exclusive establishments for the army. It would exclude the class of men that I should like to see in the army from the public schools.

1518. Practically, you would not think it an advantage that the whole army should be educated at military colleges?—I do not think it necessary; all those acquirements would be of great advantage, but I do not think that they are absolutely necessary.

1519. Looking at the present social condition of this country, do you think it would be an advantage that every young man should pass some time at a military college before he received his commission?—I think that to force it would lead to great inconvenience and difficulty.

1520. Do you mean with regard to the numbers that would be required?—Supposing you required every man to pass through a military college, there would be a certain number who would not go through those studies satisfactorily; are you to turn them away? if so, you would be sacrificing a great means for strengthening the army.

1521. The proportion of persons required for the military service in this country would be always much less than that required either in France or Germany, where so large a body of men go through that education?—I should prefer the general education and discretion of the parents to forcing them to this very particular system.

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

1522. Mr. *Rich.*] Should not you think a parent very indiscreet who turned out his boy unable to do simple equations, or a little French?—There is not one in fifty that can do either the one or the other.

1523. Would you call a man an educated gentleman who could not do a sum of addition or subtraction by logarithms?—My idea is that there is not one in fifty who could do it.

1524. Viscount *Monck.*] You state that a good general education is necessary to enable an officer intelligently to discharge his duties?—Yes.

1525. You state that if, by any other test less fallacious than an examination, the existence of that education could be ascertained, you would think it desirable that test should be adopted?—Yes.

1526. For instance, if you could mark out a certain number of public schools, certificates from which of a certain amount of education in any boy could be obtained, you think that that would be a very desirable preliminary to his obtaining his commission?—Yes, certainly.

1527. Your objection was more as to the mode in which the existence of education was ascertained, than to the extent of the education itself?—Precisely; it is the ordinary mode of examination that I should object to; if you can ascertain with confidence the qualification of the individuals by any other mode, I think it would be better.

1528. You do not approve of the system of putting all the officers who enter the army through a military college; would you think it desirable, after a man's proficiency to the extent stated by the certificate had been ascertained, that he should devote a year or so to military studies at some military university?—Yes; but I do not think that it should be universal: I do not think it should be compulsory upon every individual.

1529. Why do you think so?—A great many officers may acquire knowledge without going through what they might esteem drudgery.

1530. Do you think that the objection of a young man of 16 to drudgery ought to be considered a valid objection against his educating himself?—I think that if you make them work against their inclinations you defeat your purpose.

1531. Is not a young man going to the bar, or a young man going into the Church, or a young man going into the medical profession, obliged to submit to an immense amount of drudgery?—Those professions absolutely require a certain class of information; I do not think the army does.

1532. Mr. *M. Milnes.*] Do you not think that the great difficulty which during a time of peace the officers of the army seem to find in employing and interesting themselves is a great deal owing to the deficiency of their early education?—No, I do not think it is. I think that early education will not make a man studious; on the contrary, if pushed too far, I think it very often leads to neglect. With mathematics, for instance, I have seen that done, and the result has been that the man has had a positive disgust to it.

1533. Has not the effect of the intellectual discipline which young men undergo in the study of artillery and engineering a very beneficial effect upon their occupation in after-life?—I do not think it is the result of that education, but the subsequent study which they adopt enables them to perform the duties with credit to themselves.

1534. Viscount *Monck.*] Do you think it a greater hardship upon a young man entering the army at 16 that he should be obliged to subject himself to less exertion between that age and the age of 20, for the attainment of advancement in his profession, than an ordinary gentleman is obliged to do to come up to the requirements of society?—No, I do not think it is a greater hardship upon a young man entering the army.

1535. What is your objection, then, to his entering a college to acquire a knowledge of his profession?—I do not quite comprehend the object; if it is to put every officer, from the time that he gets a commission, in a college, for instance, for study, I think it is overdoing what is requisite.

1536. Do you not think that a considerable amount of theoretical military knowledge is absolutely necessary to enable a man to discharge the highest duties of the military profession?—Certainly, the highest duties.

1537. Do you not think that every man who enters the army ought to be compelled to place himself in that position which would enable him to discharge the highest duties of the military profession in a service like ours, in which he may

may attain to the highest rank?—If he does it voluntarily, but I do not think that attempting to force it would effect the object.

1538. Supposing we continue to retain our present system of promotion, is not it a great evil that a man may, in 10 years or less, become a lieutenant-colonel, without knowing a single iota of the theoretic part of his profession?—The theoretical part would be very trifling that you would give.

1539. You object to his having any at all?—Yes, I object to its being enforced.

1540. You think that a knowledge of the theoretical part of the profession is not necessary to make a very good subaltern officer?—I think it is not necessary to make even a very good commanding officer in the field.

1541. Do you think that a general of division does not require some theoretic knowledge?—I think you may have excellent generals of division without it.

1542. What rank does require a knowledge of the theoretic part of the profession?—Some of the staff require it; but I think the Committee misunderstood me, if they thought I said that a theoretical knowledge was absolutely necessary; I think you may have a very good general with very little theoretical knowledge; I consider that practice and soldier-like habits, and experience particularly, are of more value than all the theory.

1543. Lord *Lovaine.*] Would you say that the men who have fought our campaigns in India, who have carried the success of the British arms as high prettly nearly, if not altogether, as those of any nation in the world, were men of high scientific knowledge generally?—I doubt if the Duke of Wellington had any very high theoretic knowledge; I think it is very likely that he could not have solved a problem in Euclid, or even worked out a question in simple equations or logarithms.

1544. Sir *G. Tyler.*] Are you aware whether any examination is necessary now in the army for an officer rising from one step to another?—I believe not; I think there is no examination after the first entry.

1545. It was proposed, and it has not been practically carried out?—It has not.

1546. Mr. *Rich.*] While denying the special advantages of a very high professional education, you quite admit the value of a substantially good education for every gentleman who comes into the army?—Certainly; and I think it would be very desirable to allow all those who wish it, and have a taste for it, to acquire the highest theoretical knowledge.

1547. You would be desirous by such regulations as you thought likely to bring it out, to encourage such a desire?—Yes, I would not restrict any particular employment in the army by the result of any examination.

1548. Mr. *M. Milnes.*] You would rather take every means for improving and educating a young officer after he has joined the army, than test his fitness for admission to the army by an examination?—Yes; I would rather give him every opportunity of improving his mind, and I am sure that a great many would avail themselves of it.

1549. Lord *Lovaine.*] You think that no compulsory system can ever produce the same advantages as a voluntary one?—I think not.

1550. Mr. *M. Milnes.*] Would not that question be very much affected by the circumstance of the country being in a state of war or peace?—No, I do not see any difference.

1551. Might you not be compelled to come down to a lower standard than you might desire during war, while during peace, when the applications for commissions were not so numerous, you might make almost any standard that you chose?—There is such a desire in every officer to obtain promotion, that I am quite sure that they would study, or do anything that would tend to enable them to get it, if they were left to their own voluntary action.

1552. Mr. *Hardinge.*] With regard to a gentleman-like education, you would prefer an officer who had the advantage of being educated as a gentleman to one who had risen from the ranks, in the long-run?—Decidedly, very much. I should prefer a man who had been educated at Eton as an officer to one who was educated at a class-school for those particular objects, unless they are raised to the same standard as at Eton.

1553. Mr. *Rich.*] You do not refer to Sandhurst?—No.

1554. Sir *G. Tyler.*] You would prefer a gentlemanly education to that now

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

acted upon, because you imagine that the knowledge which boys derive from cramming cannot be permanent in their minds?—No, it is not lasting. I know it is not in many cases.

1555. Mr. *Hardinge.*] You are also aware that when a boy gets a promise of a commission, he can, by means of cramming, get up the amount of knowledge exacted by the examiners in two or three months?—I think if you adopted this system, and acted upon this cramming system, you would find that every schoolmaster's son would be selected in preference to any of what are commonly called gentlemen's sons.

1556. Mr. *Rich.*] It is the cramming system to which you object more than to the education?—Yes.

1557. Viscount *Monck.*] Do not you think that your objection to that system would be very considerably got over if you continued the examinations as the men rose to the different ranks?—I think it would be very objectionable to keep a person at school all his life.

1558. *Chairman.*] Are you not aware that by the regulations of the Admiralty with respect to the naval service, in order to command a steamer it is necessary for an officer, whatever his rank may be, to obtain a steam certificate?—That is most necessary, because that is a particular branch which it is very important that he should know.

1559. Sir *G. Tyler.*] Again, by the regulations in the navy, a man holding the junior rank of midshipman is obliged to pass rather a severe examination before he gets his commission as a lieutenant?—I think that is carrying it to the extreme point. I do not think it would be desirable to carry it beyond that; to carry it to the rank of captain and admiral.

1560. Is it not necessary that a man should be enabled to know how to exercise responsibility when he has it thrown upon him, with advantage to the service?—Certainly; but the examination in the navy has reference to the very particular practical parts of their duties; but this examination in the army is a very different thing. Algebra has little to do with military duties.

1561. *Chairman.*] The examination of a lieutenant in the navy is the examination of a person equal in rank to a captain in the army?—Yes; only, generally speaking, they are younger as lieutenants in the navy than as captains in the army; that is an examination for every part of the service that an officer must know, and cannot do his duty without knowing; but these are abstract points which it is not necessary to know in order to be in the army.

1562. Do you know any young officers in the Marines?—I believe the Marine Artillery is very much the same sort of thing as the Royal Artillery.

1563. Are you aware that they have very considerable education of a professional kind before they obtain their commissions in the general corps of the Marines?—The same principle would be desirable with respect to them as with respect to the army.

1564. You think that a marine officer should have considerable professional knowledge before he obtains his commission?—I do not know that it is more necessary than for the army.

1565. Lord *Lovaine.*] Every system of education which is to take place after an officer once enters upon the military service, must become complicated by the nature of the service which the officer has to perform?—Yes, certainly.

1566. It is proposed to have an examination for officers after they have entered the army; it would be almost impossible that an officer, who had passed his life in India or in New Zealand, could go through the same examination with the same chance of success as an officer who had served only in Dublin or Portsmouth, or at Malta, would be able to do?—That is one of the very great difficulties in that system, that they would not have the same opportunities of acquiring knowledge, and yet they might be very good officers.

1567. Whereas the duties of a midshipman passing for a lieutenant depend upon his being able to practise those branches of the service in which he passes an examination; the only duties of a subaltern who has to pass for a captain are exactly the same as those which he performed as a subaltern, or very nearly so?—Yes.

1568. Consequently, taking both the systems of examination relating purely to technical parts of the profession, the one would be no examination at all, and the other would be very severe?—An officer of the army may be a very good officer without having any education at all; an officer of the navy must have a great

Lieut.-General Sir *J. Burgoyne.*

4 May 1855.

great deal of professional knowledge, and a certain degree of scientific knowledge; but I do not think it is disparaging to the army to say that they might be good officers without much college education; they must possess a great amount of acquirements and attainments and merit to be good officers.

1569. Sir *G. Tyler.*] You stated that they may be good officers without education, but still the advantages of education would undoubtedly be of great moment to any officer?—Most certainly.

1570. Mr. *Hardinge.*] With regard to the examinations for commissions, did you state that you would leave great discretionary power with the examiners, to decide from general questions whether a boy was sufficiently well educated to enter the army?—My intention is that you should be able to ascertain what are the qualifications in some other way than by the ordinary system of examination.

1571. You object entirely to the ordinary mode of examination?—Yes.

The Reverend *H. le M. Chepmell,* D.D., called in; and examined.

Rev. *H. le M. Chepmell,* D. D.

1572. *Chairman.*] WHAT situation do you now hold in the Royal Military College?—My present situation is that of chaplain. I was formerly the junior professor in classics, about seven years and a half; and then in the year 1841 I became chaplain, and have been since that time.

1573. How long altogether have you been connected with the college at Sandhurst?—Twenty years. I was about 23 when I first went to the place.

1574. What are your present duties as chaplain?—I attend to the religious instruction, the catechising, and also the preparation for confirmation.

1575. Have you any other duties, either voluntary or connected with your office, which you perform at the college, and which duties are connected with the education?—The other duty which I have, and which is voluntary, is taking charge of the board class in history. In history they are prepared by the professors of the classical and historical departments, but I take the examination of the junior classes in history, and the preparation of the highest class for the board.

1576. What is the course of study in history which you pursue with regard to that last class?—With regard to the last, they come to me with a knowledge of ancient history. Besides the college short course, they have Keightley's Works; but when they are with me in history, my object being to give them as much knowledge as I can of English and general history in four months, the most important part of the instruction is from my own manuscript course of lectures.

1577. Do you give lectures in history?—Each member of the class has a copy of the manuscript course, and they prepare a stated portion of it each day, and they are examined in it at the same time, *vivâ voce.* In the course of instruction, I give incidental information upon a variety of subjects connected with history which happen to turn up on the occasion. For instance, in the manuscript there is rather a condensed account of the feudal system, taken from Hallam; and therefore when the class are studying that subject, there are a number of circumstances which in a formal written statement would crowd and overburden their memory, which I converse to them about and inform them of; and the course of instruction in that respect varies every half year, because a great deal depends upon the lads themselves, and also upon their degree of intellect.

1578. Are your lectures at all connected with military history?—No, not the least; merely general history; and it is not so much a history either of progress or civilization, but rather history connected with constitutional questions, and the elucidation of the various wars and great political events; such questions as will throw light upon disputed successions, or the various conquests made at different times by different European powers; parts of history that are also connected with the balance of power;—also in English history, the main constitutional questions; such questions, for instance, as the petition of right in Charles the First's time. Any person in the class would be obliged to give an account of what the main enactments of that petition are, and also against what they were especially levelled;—with regard to the declaration of right, they would be asked the various clauses of it; and likewise, they would be examined as to the various circumstances which concurred to make them necessary.

1579. Your course is such a course as is adapted for the education of everybody, and not merely military men?—Yes.

1580. In the course of your lectures, is there any opportunity given to the

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

young men to attain a knowledge of English composition?—No, there is nothing in the instruction which gives either any facility or any practice for composition; because the instruction which I give is entirely *vivâ voce*, and likewise the examination which they are subjected to is a *vivâ voce* one. A great deal of it depends very much upon the examiner himself. For instance, every examination until last year was conducted by the superintendent of studies who did not teach the class; and therefore it very often happened that the superintendent of studies would examine according to his own view of history. There are many things which I teach in the class which the examiner may not think of essential consequence.

1581. Who conducts the examination now?—I have been obliged to conduct it for the last year, and I expect to do so again this half year. I taught history about two years before I was chaplain; and, in fact, I have taught history since 1839; and since that time I have not examined at the public examination in history, except on the examination last November.

1582. Was that the last time you examined yourself?—That was the last time I examined myself.

1583. Is your principle of examination that a boy shall be able to answer questions in that which he has been taught, or is it a general examination without reference to the lectures that you have given?—My principle either for the Board or army examination is to try and find out what a person really knows.

1584. Do you mean what he knows in that which he has been specifically taught, or is the examination directed to his general knowledge?—It is with regard to his general knowledge. Taking the instance of a person brought up for army examination, I generally throw out some questions or some date to find out if he has had a systematic education. If from his answer I find that he has not, I throw out some general question to try and find out what style of study his has been. Then after that, if I find that that part of his examination is not satisfactory, I then try and find out what he really does know at all in any sort of way.

1585. In the final examination, are any questions asked the answers of which the young man would not find in the lectures he has heard?—In that examination nothing would be asked by the superintendent of studies, who is the ordinary examiner, except what he would suppose the young men would be likely to know; he has an outline of the course, and he knows pretty nearly what it is.

1586. Do you, in your lectures, point out certain books which it would be a great advantage for a student to read?—It is not my habit, and for this reason: it so happens that the system (and that somewhat cramps the study of history at Sandhurst) being a system of steps, I have not the power of carrying on the history instruction to the degree that I would wish; because after the lads have studied a certain time, and have passed an examination, there it stops. A cadet, immediately he has passed his examination in history, ceases to do any more history all the time that he is in the college; and therefore my object is rather to give him that sort of knowledge which, if he studies history afterwards, will be a great assistance to him. He will have a system given him by which he can follow up questions of genealogy and of constitutional history, and he will be also accustomed to classify events; for, being examined in general history, he is obliged, even for the standard which is required in order to pass the examination, to know what took place in Germany, in France, and in England at a particular period. Supposing that had not been learnt under a clear system, the learner would be certain to fall into confusion at the examination; therefore even to pass that examination, certain business-like habits of learning history are acquired.

1587. Do you find that the boys read history at all, beyond what you teach them?—It varies; there are some who do, but the generality do not. The tendency at Sandhurst rather is (but, of course, that is inherent in the system of steps), that instead of the subject which is taught in each of the various departments being continued up to the very end, it is thrown aside as soon as the examination is passed, or the step is gained; and that has the effect of preventing young lads reading and going on with history, because they are led to think that they had better learn something else.

1588. But there are some who do continue the study?—Yes, there seem to be some instances.

1589. They have a power of obtaining books from the library, have they not?—They have libraries belonging to each company which contain historical books.

1590. Mr.

1590. Mr. *M. Milnes.*] Do you also take part in the examination of gentlemen for commissions?—I do.

1591. Under what authority do you do that?—Under the authority of the Commander-in-chief.

1592. Have you a written appointment?—I have no written appointment.

1593. Will you state under what order you take that part?—The order I had, of course, was from the governor. Holding a commission on the staff of the college, I received information, at the time that the examinations began, that there was an examination to be held on such and such a day, and I was ordered to be present at it.

1594. Do you receive any additional salary for performing that duty?—I receive 50*l.* a year additional.

1595. How frequently do those examinations take place?—When they first began, they only took place once a month; but since the war there have been, for some months past, about three examinations in the month. Last month there were four; this month there will be four.

1596. Of whom are the Board of Examiners composed?—The president of the Board is the Lieutenant-governor, Colonel Prosser; he examines in fortification, and he also examines in those cases in which German is taken up. I examine in history and geography. The senior classical professor, Mr. Cole, examines in Latin and in English; Mr. Cambier examines in French; Mr. Narrien examines in arithmetic and in algebra.

1597. What is the general form of examination?—When a young man comes to Sandhurst I do not know what he does first: but he goes to the surgeon, and the surgeon ascertains whether he is likely to have any personal defect, or whether he stammers; and likewise he goes to the serjeant and gets measured; his height is taken.

1598. Viscount *Monck.*] What is the object of measuring; they never reject persons for their height, do they?—I am not aware that they do. The young man's height is returned to the Horse Guards. Then a certain number are introduced into the room one after another. A young man comes up to the president; the president asks him for his surgeon's certificate, and he likewise asks him for his certificate of either confirmation or religious instruction, which is afterwards given to me, and I read the certificates which are handed in upon that subject. Supposing that they are Presbyterians or Roman-catholics, their religious instruction is certified to.

1599. Mr. *M. Milnes.*] Who certifies to their religious instruction?—It is expected if they have not been confirmed in the Church of England, that if they are Roman-catholics, the Roman-catholic priest; or if they are Presbyterians or Dissenters, the Presbyterian minister or the Dissenting minister should certify that they have undergone religious instruction. After the certificates have been looked over, when the report is sent up to the Horse Guards, it is mentioned against the name of any one who has not produced any certificate, either that the person is not confirmed, or that he has not produced the required certificate. At the Horse Guards they decide what is to be done with regard to such a deficiency. We have nothing to do with that at Sandhurst beyond reporting the circumstance whether they have been confirmed, or whether they have received religious instruction. After that, the president will perhaps direct the young man to go to one of the examiners. The president looks round, perhaps, and sees which examiner has the fewest to examine, or has the most leisure, and he sends the young man up to be examined in algebra or arithmetic. He goes to that professor, and he has a certain quantity of work given to him on paper, and if he satisfies the examiner, the examiner then passes him. If he does not satisfy the examiner, the paper work of the candidate who has failed in that particular branch is kept, and sent up to the Horse Guards along with the report. Then he is sent next to be examined in Latin, perhaps; or if he does not go up for Latin, he may be sent over to the French side. The French master does the same thing. If the examination is not satisfactory, he keeps his paper work in the same way.

1600. Will you state the course of your own examination?—When a young man comes to be examined in history and geography, my examination is *viva voce*, till I have reason to believe that he is not satisfactory; and then, when I have come to the conclusion that he is likely to fail, I give him written questions. The papers and questions have varied at different periods. The first papers were

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

found fault with as being too difficult. At one time they were found fault with as having perhaps too many dates; at another time they were found fault with on account of the subjects. If a person fails in history, as a last resource 15 questions are given. There are two questions in Grecian history, with regard to which he is only expected, as a minimum, to give some very short account, some four or five lines in writing; these are such questions as the name of some celebrated person; such a name, perhaps, as Demosthenes, or Brasidas, in which case the candidate is desired to give some short account of that person; or perhaps the question bears upon an event in war: of course, he is not expected to give any full account, but provided he states something connected with the war, either the course or the termination, or mentions some particular battle, and thus shows that he knows something of it, it is sufficient. With the first or second of these questions, a date is asked. Then there are four questions likewise on Roman history; three questions connected with the Roman Commonwealth, and the fourth with regard to some emperor or some event like Attila's war, which happened in the days of the emperors; and in one of those four questions there is a date asked, so that there is one date asked in Roman history and one in Grecian history too. Thus there are six questions altogether in ancient history. Then, besides that there are six questions in English history; one or two of these generally require the candidate to give some account of some reign or king; the remainder are of this sort: give some account of Simon Earl of Leicester, or of Harley, or, perhaps, Sir Robert Walpole, or some famous Act of Parliament. The last three questions in each paper are in general history. As most of the candidates are more or less deficient in that, this is the part of the examination on which least stress is laid. Such a question is asked as this. Give some short account of the Sicilian Vespers, or Rudolph of Hapsburg. There are two questions in Grecian history, four in Roman history, six in English history, and three in general history; that makes 15.

1601. Are they written down?—Yes, and the answers are to be written down opposite to the questions.

1602. Are any of them printed?—No, they are all written.

1603. Can you furnish the Committee with copies of them?—Yes, I can furnish copies to the Committee.

1604. Viscount *Monck*.] Are the 15 questions always the same?—No, if they were the same towards the end of the time, those who passed early would tell the others. I usually make four or five copies of each paper. By this means I change the questions of those who have come up for examination later.

1605. *Chairman*.] Will you send in to the Committee the two last sets of papers which you used upon the last examination?—Those papers are exhausted; I could either send in to the Committee the two papers intended for the examination that will take place next Tuesday; or on Wednesday I could send in two of the papers that were given on Tuesday.

1606. Will you have the goodness to send in to the Committee those which are ready written out for the next examination?—I shall do so.

1607. Mr. *M. Milnes*.] Do you require that all those questions shall be answered?—No, I do not require that they shall all be answered, and for this reason. The *vivâ voce* examination is always taken into consideration. It might happen that upon the *vivâ voce* examination a young man has satisfied me pretty well in a particular part of it, and yet I might find that he was exceedingly deficient in ancient history. I should put him to write on that ground only. Perhaps, on the whole, when he has done this paper work, I consider that he ought to pass for history. In that case I should send up his work to the Horse Guards, and of late it has been my custom to write at the bottom, if he had also answered a number of *vivâ voce* questions, "He has also answered very fairly a certain number of *vivâ voce* questions," and then it would be at the option of the Commander-in-chief to pass him or reject him; for it must be understood that at Sandhurst itself the examiners have no power of final rejection. Any person who is rejected by the examiners has his paper work sent up to the Commander-in-chief, and with him it rests whether he shall pass or not.

1608. What sort of examination is this *vivâ voce* examination?—The *vivâ voce* examination depends entirely upon the style of man that comes to be examined. If by the way in which he begins to answer I see that he is something different from the common run, I immediately put some out-of-the-way questions. If he answers those questions, I shorten his examination. I only examine him sufficiently

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Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

far to be able (as it has been lately the custom to mark any one who has passed rather superior to the rest) to ascertain whether he really has had a good education.

1609. What kind of standard of historical information do you consider sufficient in the *vivâ voce* examination which induces you to be satisfied with it, and not to go any further?—If a person could, on the whole, give me a fair and clear outline of the history, I would then pass him; but that is going to the lowest standard of qualification. They vary very much; I have known many instances in which those especially who have been brought up at public schools have passed very creditably indeed. The most difficult to deal with are those who are brought up at what are called cramming schools, where they have a certain amount of knowledge given to them: for as they are not positively bad enough to be rejected, they manage to get through in that way.

1610. You stated that you give lectures in history to your own cadets?—Yes; that is to say, not a formal lecture, but more in the manner in which an Oxford tutor communicates knowledge to his pupils.

1611. And you also examine your own cadets in their examinations in history?—No; I have examined them this last November, and I expect to do so again this half year; but it must be remembered, as I mentioned before, that from the year 1839 down to the middle of the year 1854, I never did examine my class in history; that has been owing to the circumstance of the superintendent of studies becoming lieutenant-governor, and there being a new superintendent of studies, and at the present moment that superintendent of studies having leave from the Commander-in-chief to go out to the Crimea.

1612. Would you be content with a much inferior knowledge of history from those gentlemen who come up to be examined in this way, from what you know to be required from your ordinary cadets for commissions?—I should be content with a lower standard than that required for the cadets of the Board class, especially in general history; because I examine, not by a standard that I myself choose, but according to that which is required of me. As I mentioned to the Committee before, the examination papers, and the style and form of them, have been altered.

1613. You stated that you do not require that they should answer all those questions; for the purpose of reporting them competent or incompetent, do you require that they should have any particular number?—No, not any particular number, because I take into consideration the *vivâ voce* examination that they have had before. I had an instance of a man who had had a university education, though I did not know it at the time; he came for examination in history, and I put various questions to him, and found that he was not satisfactory; I gave him some paper work, and I found on the paper work that the answers to one or two questions showed decidedly superior knowledge. I asked him some questions in that part of history, and I found that he had read ancient authors, and had got one or two up uncommonly well; and as in certain subjects and portions of history I found that his knowledge was very superior, I passed him.

1614. Mr. *Hardinge.*] You had no doubt in passing him?—No.

1615. Had he taken a degree?—Yes, he had taken a degree; he was an Oxford man.

1616. Mr. *M. Milnes.*] Can you state to the Committee the proportion of the men who are rejected on account of their incompetency to pass this examination?—I think on the last examination but one, out of 30 I sent up 11 as unsatisfactory, seven of whom were decidedly deficient, and four of them weak; but of course the question of passing them or not belongs entirely to the Commander-in-chief. The last examination, out of 28 there were five deficient and two weak.

1617. Do you happen to know how many were refused commissions?—I do not know; of late, since the war, they seem to have commissioned several who would not have been commissioned formerly; but before the war broke out, if a person failed in one subject only, he was gazetted; thus, if he failed in history and passed in all the other subjects, he was gazetted. They used to have a system, as far as I can make out, in the Horse Guards, that they did not make much of any one single failure: but if a person had no knowledge of any language they used to reject him.

1618. Mr. *Hardinge.*] You are aware that the exigencies of the war would make a substantial difference in the case?—Yes; for before the last few months, I do not think they used to give a commission to any one who failed in languages,

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

and generally when they failed in two things, they sent them up for examination again.

1619. Mr. *M. Milnes.*] When they are sent up for examination again, do they also come to you?—Not unless they have been rejected by me before. Supposing a young man had passed in history, he would not be brought before me again.

1620. He would be examined a second time only in those points on which he failed the first time?—Yes, exactly so.

1621. Viscount *Monck.*] You stated that, in the historical questions, there are a certain proportion of dates; in answering those questions, do you require a man to fix a year by numbers, or merely to fix a period by reference to cotemporary events?—By the year, if he can; if he cannot, then any reason that he could give to conjecture the time would tell in his favour,—in fact, for the last three years no stress has been laid upon the answering or non-answering of dates; it was objected to. Still with regard to instruction, the duty of the examiner is rather to dwell upon dates; because, if any one attempts to learn history without paying attention to that, he is sure to make, in a very short time, great confusion of it; and therefore I should say that too little attention is paid to dates.

1622. Lord *Lovaine.*] Supposing a boy was to answer the date of a particular event, that it happened in the middle or at the end of such a century; would that suffice?—Certainly; besides which, there are persons constantly passed at present who are hardly able to say a date at all; they are, unfortunately, some of those who have been crammed in history, who are deficient in that point; and I have sometimes said, "It is a perfect waste of time and labour what you are doing. If you were to tell me that the Duke of Wellington lived in the year 2000, and the battle of Waterloo was fought in the year 1940, and Queen Victoria reigned in 1740, what sort of notion would you have of what passed?"

1623. Viscount *Monck.*] If a man told you that the battle of Waterloo was fought when King George was on the throne, and that Bonaparte lost a crown by it, would not that give a more general knowledge of history than to say that the battle of Waterloo was fought in 1815?—Yes, of history it would; but if he did not know the century, it would be only vague narration.

1624. *Chairman.*] Supposing a young man is well acquainted with ancient history, but deficient entirely in modern history; would he pass?—He would be sent up as weak; and if he was returned weak on several other subjects, a number of weaknesses at last would amount to a failure.

1625. Supposing, on the other hand, that he was well acquainted with modern history, but not acquainted with Grecian history, what would be the result?—He would be returned weak; and his having failed in that point would tell against him if he was weak in anything else.

1626. At head-quarters they estimate whether a boy has sufficient general education to pass?—Yes, they do; and besides that, within the last 12 months, on the report sent up, the examiners are required in the case of those who fail, to put a mark to the name of the person who has failed, when they consider upon the whole that he has had the education of a gentleman.

1627. Mr. *M. Milnes.*] Do you find more facility in passing those educated at public schools?—Yes; they are decidedly superior to those bred up elsewhere, many of whom have to be got up for the work.

1628. Sir *G. Tyler.*] That is what you call the cramming system?—Yes.

1629. Mr. *M. Milnes.*] Are there establishments where young gentlemen are got up for this examination?—Yes.

1630. Colonel *North.*] Do you require much knowledge in classics?—Not a very large amount; my impression is that they give candidates some Livy or Virgil, or some Cæsar to translate; and if they can translate fairly and parse, they are not called upon for more.

1631. Mr. *Hardinge.*] Do you examine in ancient history as well as in modern history?—Yes.

1632. If a boy from Eton exhibits considerable knowledge in Grecian and Roman history, and he is deficient in general history, would you reject him?—I would not reject him if he was deficient in general history; if he could but give me some tolerable outline in English history, I should then pass him.

1633. You would require him to put down on paper generally what he knew in modern history?—I would, first of all; and then if I saw that his examination in English history was not good, but at the same time he was not altogether ignorant,

ignorant, I should then take his more brilliant examination in ancient history into consideration.

1634. Mr. *M. Milnes.*] Does your examination vary in length, according to your perception of the capabilities of the student?—Decidedly.

1635. *Chairman.*] Do you examine out of any particular book?—No, not out any particular book.

1636. Mr. *M. Milnes.*] Are there any books which you suppose are particularly studied at these cramming establishments?—I know it must be the case; my own book, these cramming schools of course are likely to read from.

1637. Mr. *Hardinge.*] A specific list of books is given, is not it?—Not now.

1638. Mr. *M. Milnes.*] What do you mean by your own book?—At a time before the army examination was thought of, I had written a short account, a work of about 400 pages, close printing, of Grecian, Roman, and ancient history; and Sandhust being one of the few public schools where history was attempted to be taught on something like a system, it was found convenient to have a work on the subject; and about a twelvemonth before the army examinations began, which was in the year 1848, I published the first edition; and the book, when it came out, was adopted at once by Mr. Liddell, the head master of Westminster School. The first edition came out in 1848; the fifth edition is coming out now.

1639. What is the title of the book?—"A short Course of History, First Series." Since the time when it came out, which is now nearly seven years ago, there have been four editions sold. One edition of 1,000 copies, another of 2,500, another of 4,000, and another of 5,000; 12,500 in all. The proportion sold for the use of the army candidates must have been a small portion of that number; not so much as one-fourth. Before the war there were not 400 persons examined in a twelvemonth; whereas about 2,000 copies were sold annually. When the army examination began, the late Commander-in-chief recommended this book; I did not apply for it, and in fact I had nothing to do with the list of books selected. One of the books recommended was Hume's History of England, which for constitutional reasons would certainly not have been a book that I should myself have recommended as a work of education; I should have preferred Hallam's works. If I had had anything to do with the recommendation of the course of history, I should have decidedly recommended Hallam's Middle Ages.

1640. What course do you pursue with regard to geography?—The quantity of geography required is limited. Candidates are, strictly speaking, only obliged to know the general divisions of the world, and the places in Her Majesty's dominions. I examine generally in geography; I ask questions in it which are not strictly required in the course. If I find by asking a few questions at random that they know those questions, and more than they are expected to do, I instantly say I am satisfied, and it tells in their favour. If I find they fail in geography, I then ask them questions in it which they are strictly ordered by the regulations to take up, that is, the places in Her Majesty's dominions, or the military stations, or the capitals of the countries in Europe; or the principal countries and the general features of them.

1941. Is there a minimum of what they are required to know?—That is what I have mentioned; the capitals of the principal countries in Europe, the general divisions; the continents; the different countries (what countries there are in Africa, for instance); and they are likewise expected to know more minutely those parts of the world which belong to the Queen; the principal military stations, harbours, ports, and dockyards.

1642. Do you pursue the same course with regard to *vivâ voce* examinations and paper work in geography, as in history?—Yes; the questions in writing are confined to such questions as these; for instance, "Where is Valetta?" or, "What is the principal town in New Zealand?" or some questions of that kind.

1643. Could you furnish the Committee with some papers which you have used with regard to geography?—Yes.

1644. Is the proportion of those who fail in geography larger or smaller than of those who fail in history?—The proportion of those who fail in geography is much smaller than the proportion of those who fail in history. At the last examination, if I remember right, there were five failures in history, and two in geography.

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

1645. Have you to resort to the paper work in geography as frequently as in history?—No, I have not.

1646. Would it be possible that a young man should be rejected merely on account of his ignorance of geography?—He would be rejected on account of geography, only if he failed in something besides.

1647. Would the answers to those minimum questions in geography be considered sufficient in all cases?—There are only twelve questions put in geography on paper, and if candidates answer about eight of those questions they pass. If they answered, perhaps, only two or three on paper, and they chanced to have answered others *vivâ voce*, this would be taken into account.

1648. Would the young men from the public schools generally pass in geography?—Generally. I have had some experience in schools; when I was professor in Latin, I used to examine the cadets when they were first admitted; I have seen the results of public schools in the case of boys between 13 and 15, and since then of young men also; my impression is throughout, that the public school education of the country is decidedly superior to any other; there are of course exceptions.

1649. Do you send up the papers in geography to the Horse Guards, in the same way as those in history?—Yes, in the same way; all the papers of all the subjects are sent up in the same manner.

1650. Colonel *North*.] Do you find that a great number of them fail in their spelling, dictation, and writing?—Some fail in dictation, but not a very large number; that is not in my department; I hear the failures read.

1651. Mr. *M. Milnes*.] In the answers in the paper work, if you see that the writing and spelling are very deficient, do you take that into account?—No; I have generally found that they are returned as having failed if the writing is found very deficient; I had an instance of a person who was very satisfactory indeed in history; he was a young man who had been brought up abroad, and had had a very good education, but both his language and his spelling were bad. There was, however, one part of history in which he chanced to fail a little, and I gave him some paper work, and passed him; when he was put to writing, he collected his ideas, but the language and the spelling were anything but satisfactory; but then he was more of a Frenchman than an Englishman,

1652. *Chairman*.] Did he pass?—He failed in English, but I think he passed, although I am not certain about that.

1653. Do you think that if he had been tried in writing and spelling in French he would have done that correctly?—Probably he passed in French, and passed very well. Where hundreds of persons come under one's notice every year, unless one chances to remember anything particular in the examination, one cannot recollect particular names.

1654. Lord *Lovaine*.] You would not consider a failure in dictation examination as absolutely excluding a boy?—No; I do not think the Commander-in-chief ever did exclude a candidate for that if he passed in other things. It has happened that some have passed in French and German, and that has been counted in their favour.

1655. Sir *G. Tyler*.] You stated that the young men who came for examination from the public schools were rather better than those coming from the cramming schools?—Several of those from the public schools have also been in the cramming schools. Sometimes the parents of a boy, who has had a very good education, adopt the very worst course with him; instead of getting him to read with a private tutor, which is by far the best thing that could be done, when he is ordered for his army examination they are panic-stricken, and fancy that this sort of thing can only be got at a cramming school. Thus a cramming school is had recourse to: for it is difficult to find any one who can teach fortification; and candidates are required to undergo some little examination in Vauban's system. Perhaps a parent finds that his son has to do that; he thinks, I can have him taught Latin and history by a private tutor, but if fortification is to be done, Mr. So-and-So does not know anything about fortification, so he sends the boy to a cramming school.

1656. Sir *G. Tyler*.] Your conclusion is that those who are brought up in public schools are better grounded than those who have a superficial knowledge from cramming?—First of all, in a public school, whatever a boy has learnt he has learnt well. A boy in a public school may be idle, but what he does learn he has not to unlearn; and then there is another circumstance, that the inferior masters

masters are superior to the inferior masters and ushers in private schools. There is a great deal in the effect upon a boy's mind, which is given not merely from what is taught him, but from the teacher himself—a man who, in his style conversation, and by his tone in treating any subject, gives the impression to a boy of some knowledge and learning beyond the actual mechanical work they are doing. It gives the mind of a boy who is brought up in a public school something of a higher standard, whereas a boy brought up by a mere drudge gets no notion of anything beyond mere drudgery.

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

1657. You find that some boys are extremely nervous at a *vivâ voce* examination; if you discover that, do you ever place the questions upon paper?—Yes; but first of all, I ask some very easy questions. You can, in a very short time, by the appearance of a person, guess what sort of a person he is. I could almost tell when a person is coming up what he is. If I see that he is a nervous man, and somewhat confused, I simply ask him something very easy and make him feel comfortable, and then, if he has anything in him, he gets over any feeling of nervousness in a very short time.

1658. You would not reject a young man if he exhibited any nervousness and could not answer?—No; the object of a bad examiner may be to detect flaws and blemishes; the object of a good examiner is to find out if there is anything in a man.

1659. Mr. *M. Milnes.*] Will you state to the Committee whether it occurs to you that frequently a man is rejected by these examinations who, from your knowledge, from your long intercourse with Sandhurst, of what is required for an officer, you would say was a loss to the army, and whom you would have wished to have been an officer?—I should say not, because within the last twelve months, at least, when the report is made out, it is mentioned in how many things a person has failed, and then the examiners, looking at each case, consider how the examination has been passed, and if in their estimation the person examined has had a gentleman's education, they put a large P, a private mark, against his name, and the Commander-in-chief then sees that although that person has failed in various subjects, he had a gentleman's education; and in the case of those who are considered as unfit, and not having had a gentleman's education, their failures are put down without any remark; therefore I do not conceive that any of those persons are a loss to the army. It might happen occasionally that a very able, and active, and energetic person is lost to the service; but, upon the other hand, I expect that another person is found who will be equally able, and active, and energetic, with the advantage of having superior intellectual knowledge, and therefore he makes a better officer; because, taking two men of equal courage, and equal constitutional energy and strength, of course the man who has the most intellect is the most efficient and superior man.

1660. Does it not occur that there come up young men of great spirit, and energy, and good will, who from the circumstance of their not having been fortunate in their education, may not be able to pass this examination, but who nevertheless would be very good officers?—That may be. Whatever is done in this world there must be some sacrifice made for it. The question is, Are intellectual acquirements of any value? If they are, there must always be disadvantages in the modes of ascertaining them. You must sacrifice something to ensure those acquirements. I do not see how you can find out what intellect a man has except you examine him; if not, you must depend upon recommendations and certificates, and any person of the least knowledge of the world must know that the superiority of an examination is this; it is something real; it is no sham; whereas if you bring forward any other test, self-interest, dishonesty, and a variety of causes will make it impossible to make it any sort of valid test or means of ascertaining what a man is. Examinations have their defects: of course, wherever there is an examination, there will always be a certain quantity of cramming, and that is an evil: but that may be remedied by patience. The system of examination ought to begin not too hard at first, but the standard ought to be kept periodically rising, and in a few years the standard would be raised to that degree that it would have a wholesome effect upon all the schools of the country. In fact, what an immense deal of good has been done to the schools of the country by the mere circumstance of the introduction of the University examinations. Some 60 years ago, when there was no examination whatever at Oxford, the condition of the private schools in the country was infinitely worse than it is at present. I have heard

Rev. *H. le M. Chepmell*, D.D.

4 May 1855.

my father give an account of the ignorance of men of his standing of the commonest things. It was said in his time when they first had the examinations at Oxford, that it was a great hardship, and a great number of reasons were brought against the examinations; but the examinations were introduced, and the consequence was that they produced an effect beyond the University itself.

1661. Do you not think, considering the special case of the army, now that the demand for officers cannot be a regular one, but must depend upon peculiar events, it would be very difficult to institute any system of examination which should satisfy all that might be required in time of peace, and, at the same time also, all that might be wanted in time of war?—But then, in the army the one thing to be considered is, that the tendency in army education is to be rather too professional. Now, it is of consequence to have an education for a man's mind; and therefore, though history and Latin are not subjects which directly concern an officer, the mind which is trained in such studies is strengthened and improved. I heard of a case some time ago of a Westminster scholar of the name of Waterfield, who had a gold medal given to him by the Governor-general of India, for having done more in languages than any one else had done before him. I chance to know, on good authority, that this young man attributed his success to his Westminster learning. He said he had a mental training, and had acquired certain habits of business, which he found useful in other pursuits. Besides, officers are not to be looked upon as mere fighting men; they become governors of colonies, and are sometimes drawn into constitutional and legal questions. It is a mistake to look upon military education purely in a military point of view.

1662. Are you not aware that it is the common repute that English officers as compared with foreign officers are so remarkably deficient in professional knowledge, that it rather a fault which is found with English officers that they do not take the same interest in their profession as the officers of some foreign countries do?—Yes, I am perfectly well aware of that; if I were arguing against giving officers a professional education, that remark would apply; but all that I argue for is against an exclusively professional education; and the probability after all may be that an officer may not study professional matters, because it might chance that the inducement might not be so great as it is abroad; there may be a number of other causes.

1663. *Chairman.*] You stated that in all examinations a certain quantity of cramming is inevitable?—That is to say, wherever examinations are required there will be always a certain number of persons who make it their profession to cram up for it. I consider that a great evil. The majority of those who come up for army examinations are not crammed; or at all events, if they have been at cramming schools, I can see by the way in which they answer, that they have not got their knowledge from the cramming schools.

1664. You have an Oxford experience, have you not?—Yes, I am an Oxford man.

1665. There is cramming at Oxford?—It so happens that I do not know much of the cramming system at Oxford, never having had a private tutor, even for honours.

1666. Do you not know that after all, the cleverest and best educated man is the man who generally can cram the readiest?—Yes; the evil rather is this; in Oxford and Cambridge the chief objection to cramming is that there are many persons who come to rely more upon their tutors than upon themselves; and therefore it injures some men as original thinkers; but still the knowledge that is crammed into them is good; whereas several of the crammers for admission into Sandhurst and Woolwich are quite an inferior description of men to those who cram for Oxford and Cambridge.

1667. The question referred to the fact whether a well-educated and a clever man is not more easily crammed than a stupid man who has not been educated?—Certainly.

1668. Therefore, after all, when you come to an examination, and when cramming is stated as an objection, is it not, in point of fact, the case that a boy who passes well from cramming, shows that he has a certain amount of education before, as well as of intellect?—Decidedly. The only objection to cramming is, that it will occasionally enable an inferior person to pass who would otherwise be plucked.

1669. Could a stupid man by any system of cramming get a first class at Oxford?—

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

Oxford?—No; a stupid man could not get a first class at Oxford by any system of cramming.

1670. Do you suppose that a person who is perfectly ignorant and stupid would by cramming for a year be able to pass your examination for a commission?—Not if he took up Latin; but I do not know, if he took up French, what the case might be. My impression is, that a thoroughly stupid or ignorant person could not manage it. I should think that the French may be learnt very much by ear, and being a modern language, may be taught with less reason thrown into the instruction. And yet, after all, a very stupid ill-conditioned person could not cram even the French. The examination could be got up in a tolerably short time by a person who had a pretty fair foundation in scholarship, and was well-educated.

1671. In point of fact, with all the system of cramming, it still acts as a check in preventing an ill-educated man, and who is inferior in point of ability, from passing the examination?—Decidedly; it has prevented some. This present war system has been re-active; but until the war broke out, I found a most decided improvement, compared with what I knew at first in the general scale of examination. The first one or two years there came most inconceivably strange specimens. I am convinced that before the army examination was established there must have been some very gross cases of ignorance. Even now the standard is not a high one; but, judging from the specimens that came at first, there must have been some men who went into the army with a most extraordinarily infinitesimal amount of knowledge.

1672. *Chairman.*] You think that the examination has improved, as far as you can judge?—Yes; it is somewhat reactive now, in consequence of the pressure of the war; but still the candidates are better than they were at first. I attribute the reason of that to this: In the year 1849, when the system began, the boys who intended to go into the army, and were at Eton, or Winchester, or anywhere else, probably did not care much for their work the last year that they were at school. Now a young lad is more likely to keep it up; and practically, I consider that the examinations have added on the average one full twelvemonths' work to those men who enter the army; and a twelvemonth to a person of 16 or 17 is worth five years, compared to what boys learn when they are nine or ten.

1673. At the present moment, if a boy does not pass the first examination he is allowed a second trial, is not he?—He is; the system that they have is, that he is only examined in those points in which he has failed.

1674. If he fails in the second examination is he allowed a third trial?—They used to allow it, but it has not been allowed for some years.

1675. Do you think it advantageous to allow a second trial?—I think it ought to be allowed in common fairness; it will sometimes happen that some man comes up, who perhaps belongs to rather an old-fashioned family; he may have had a very fair education, but he and his family are not sufficiently people of the world to know the best way of settling to work, and perhaps he fails the first time; then the second time he knows what the examination is, and he passes. It is perfectly fair that he should have a second trial, but in no case would I recommend a third trial.

1676. Sir *G. Tyler.*] Do you not think it necessary that boys educated in a public school should go, previously to passing their examination, to some tutor or other to give them instruction in those points which are requisite for examination which are not taught at a public school?—Yes; but if the army examination system does continue, it is to be hoped that it will have this effect upon the public schools, that the large public schools, like Eton, having a number of men in them who are likely to take to the profession of arms, will probably, before many years are over, establish a military branch; and that would be a great advantage to the country, because it would knock up the cramming schools; what is wanted is, that the great public schools should, whenever they can afford it, have a military department for those intending to go to Sandhurst; and that would do away with the objectionable system of cramming altogether.

1677. *Chairman.*] The examination is hardly military, with the exception of a very small portion of fortification?—With the exception of fortification, it is not military.

1678. It has been stated in evidence that the knowledge which is required of fortification might be got up in a very short time?—Yes.

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

1679. The cramming is with regard to the fortification?—Yes, partly; it might be thrown out altogether; they might be made to do it after they joined their regiments, were it not that the practice in drawing is worth a good deal.

1680. Viscount *Monck.*] With reference to the present system of discipline at Sandhurst, do you think it a good system; it is different from the system of the public schools, is not it?—It is different, as being more military; the system is different; it has its advantages and disadvantages; it has one disadvantage, which I do not think can be easily remedied, which is this, that in other schools the discipline is carried on by the educating body; at Sandhurst, being a military system, it is entirely in the hands, not of the teachers and masters, but of the lieutenant-governor, the major, and the captains of companies, and the non-commissioned officers.

1681. Do not they always co-operate?—They co-operate; it is not that there is any collision, but no one at Sandhurst can have the same thorough knowledge of the cadets that the masters of the great public schools have, because the masters live with the boys; whereas the masters at Sandhurst, when they leave their hall of study, see nothing of the cadets all the rest of the time; nor do any of the officers live in the house with them; so that the discipline of those boys is in the hands of persons who merely see them officially, and must rely very much on the reports of servants and serjeants. Now at a public school, perhaps a boy may be living in the house of one of the masters; these have under their control the whole life and habits, and education and conduct of the boys, in study and out of study; it all belongs to the same system.

1682. Do you see anything in the general tone of the cadets at Sandhurst inferior to the tone of a public school?—I think there is some sort of inferiority, in my opinion, arising also from this circumstance, the examination being a system of steps, a clever boy passes his examinations earlier; instead of its being a regular course, they take up a certain number of steps; so that supposing a lad is very clever, he may get his commission in two and a half or three years. The consequence is that the proportion of the clever, well-disposed boys is, from that reason, rather less than it would be in another school. An ill-conditioned boy, or a boy who is dull in intellect, or an idle boy, may remain four years and a half; those who would have done good to themselves and others by remaining, leave early. The consequence is, that the elder and better part of the school is smaller as to numbers than would be the case in a public school of the same size.

1683. Is there anything that you see in the inferiority of the boys that you can trace to the masters not living with them, and not having that oversight which they have at public schools?—I think it has some slight effect, but it may be prejudice and fancy. I have a little of the prejudice of the university and the school system. Nor could the masters live with them, though officers might.

1684. Lord *Lovaine.*] Practically, you do not think it advisable to narrow the field from which officers are taken, by restricting it to one particular college or system of education?—No; perhaps I may have a little prejudice towards the free and open system; I think that wherever there is no sort of competition there is always a tendency to stagnation. I think a military college is a very useful thing, as keeping up a knowledge of certain branches, and also bringing into the army a number of men, who bring with them a certain degree of science; but, on the other hand, to oblige every officer to go through a military college, I should say, would be a mistake.

1685. Mr. *M. Milnes.*] If you had several military colleges, would not there be a rivalry between them?—Yes, and I think that would be good; I think there is nothing like competition.

1686. Viscount *Monck.*] Would you think it a good plan to have a young man pass a preliminary examination not the least technical, and then that he should pass an examination at the military college before he joined his regiment? If there were several colleges I think it would be a good plan; but if they were all brought together to study, I think the chances are that they would not do much.

1687. Mr. *M. Milnes.*] Have you any personal communication with the students besides that which arises from your office of instructor?—Very little, except at particular times.

1688. How do you exercise discipline in your own school-rooms?—In the school-rooms they punish them in two ways: one is to give them imposition studies; but that is more with the juniors; I do not think in the Board classes they have much

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

much of that: the other way is, that a cadet is removed from the study and taken to a place of confinement.

1689. Do the masters exercise that power?—Yes, any master can ring the bell and put a cadet into confinement; having done that he sends him out, gives him an imposition, and reports the offence, and the lieutenant-governor takes it into consideration the next day; and probably when the imposition is done, he lets him out of confinement. If it is a very bad case, sometimes the lieutenant-governor gives him what is called an office imposition. There are many points in which the system at Sandhurst is praiseworthy; there is no corporal punishment whatever.

1690. Have you any communication with the senior department?—None whatever.

1691. Lord *Lovaine.*] What is the religious instruction of the students?—Those who are not confirmed are catechised once every half year, and they also go into the hall for about an hour and a half, in which they have instruction about the principal duties of Christianity, and some of the main leading doctrines of the Christian religion; they come in for religious instruction in the chapel for an hour, and in the same week they come in for an hour and half additional.

1692. Are the elder boys required to attend the catechising course?—No.

1693. Are they instructed in religious history?—No, except what instruction they have at the time of their preparation for confirmation; at the preparation for confirmation they attend according to their degree of proficiency; at the last confirmation a few of the best taught attended me seven times and eight times; then there were others that attended 18, 19, and 20 times, and others as much as 23 and 24 times.

1694. The confirmation once over, no private religious instruction is given by you?—No, except in the "Religious Evidences," the first part of Paley.

1695. Sir *G. Tyler.*] Have they chapel every day?—Only a few collects. Formerly they used to have the prayers read in the dining halls. At the time when I became chaplain, I was informed that it had been sometimes customary for the chaplain to go into one of the dining halls at prayer time; but I said, "I decline that." They used to have the system of a boy reading prayers to each company. If he was nervous, or read badly, there was no remedy. I said, "Whenever you choose to have prayers read in chapel, I shall be very willing to do it;" and some two or three years after that they adopted the present system. The cadets are marched into chapel, and there is a selection of a certain number of collects, sanctioned by the late Bishop of Oxford, from the church service, which takes about four or five minutes to read. This is done morning and evening. There is no formal church service, except on Sundays.

1696. *Chairman.*] Is that read by the chaplain?—Yes.

1697. Have you evening prayers in the day?—When the cadets go up to their dormitories they march into chapel in the same way; they have a few collects from the evening service.

1698. Sir *G. Tyler.*] Are they bound to attend chapel?—They are bound to attend chapel, unless they are Roman-catholics or Dissenters, whose parents object to their doing so.

1699. Lord *Lovaine.*] The Roman-catholics and Presbyterians would get no religious instruction whatever?—None whatever; I once had a Roman-catholic who was put under my religious instruction by his parents till the confirmation came on, then he was taken off; Presbyterian boys occasionally are put under me.

1700. Mr. *M. Milnes.*] Has a case occurred of Presbyterian parents objecting to their children being under you?—Yes, I have heard of Presbyterian parents objecting. No one has ever been taken away from me who has been put under me. Boys have been ordered for religious instruction, but their parents have said that they were Presbyterians, and claimed the privilege.

1701. Sir *G. Tyler.*] You do not interfere with the religious education of a Roman-catholic or Presbyterian, unless you are requested so to do?—No.

1702. Lord *Lovaine.*] Then they do not get any religious instruction whatever?—They are taught none at all.

1703. *Chairman.*] Are there many Roman-catholics and Presbyterians at the college?—I should say that there are generally about four Presbyterian boys in the college, who are never under me.

Rev. *H. le M. Chepmell*, D. D.

4 May 1855.

1704. Mr. *M. Milnes.*] Are the Roman-catholic boys sent to mass on Sundays?—I only know of one instance of the kind. There was a Roman-catholic boy whose parents requested that he should go to mass, and he always went to Reading. Roman-catholic parents do not have their boys go to mass, or they would have to pay the expense of their going. What is done is this: On Sundays the Roman-catholic cadet attends Sunday parade, and after that he falls out, and then goes up into his room. He is supposed to be reading his own prayers, if he chooses; but, of course, there is nobody to see that he does so, or to oblige him to do it.

1705. Viscount *Monck.*] Are there any Roman-catholics at the college now?—I think not. We have sometimes had two, occasionally one, and very often no Roman-catholics at all.

1706. You generally have not more than one or two at a time?—That is the case.

Martis, 8° *die Maii*, 1855.

MEMBERS PRESENT.

Sir Francis Baring.	Colonel North.
Sir George Tyler.	Colonel Dunne.
Mr. Hardinge.	Viscount Monck.
Lord Lovaine.	Mr. Rich.
Mr. Monckton Milnes.	

RIGHT HON. SIR FRANCIS BARING, BART., IN THE CHAIR.

Major-General *George Augustus Wetherall*, called in; and Examined.

Major-Gen. *G. A. Wetherall.*

8 May 1855.

1707. *Chairman.*] WERE you educated at the Royal Military College at Sandhurst?—Yes, in 1818 or 1819; I was in the senior department.

1708. How long were you there?—Three years.

1709. You took a senior-class certificate, did not you?—Yes.

1710. What office do you hold now?—I am Adjutant-general.

1711. You are now upon the Board of Commissioners of the College, are you not?—Yes, I am *ex officio* one of the Commissioners.

1712. When you were at the senior department, had you an opportunity of seeing the working of the junior school?—Very little; we were then separated from the junior department; we were at Farnham.

1713. You have no practical knowledge of the school further than what you have occasionally acquired as one of the Commissioners?—No.

1714. What is your opinion of the advantage of the school at the present time?—I consider that it is a very great advantage, inasmuch as it gives, more particularly to the children of officers, the best of education at a small rate.

1715. Do you consider that it is an advantage to the service to have an establishment of that kind?—Undoubtedly.

1716. Quite independently of any feeling of kindness towards the sons of officers?—Yes. I have found that those young men who have been educated at the college, and who have really studied for the sake of acquiring professional knowledge, have been always very eminent men; they have always advanced themselves, and they are generally, at a very early date, made adjutants of regiments.

1717. You think that those officers have turned out well?—Certainly; undoubtedly they have.

1718. Are you acquainted with the examination that takes place at the entrance of a student to the college?—No, not at the junior department.

1719. Do you know the course of study at the junior department?—No, I do not, except as it is laid down upon the paper.

1720. Looking at it as it is stated on the paper, from your experience do you think that the course of study is a judicious course?—I think there is a great deal

Major-Gen. *G. A. Wetherall.*

8 May 1855.

deal too much theory, and too little practice; I think that boys go too far in mathematical science, without understanding what they are about. I am of opinion that nothing should be taught in the hall that is not immediately practised outside; that is not the case at present. Boys go into the higher branches of mathematics, without knowing the application of those mathematics. There is less of practical geometry and trigonometry than there ought to be, in my opinion, and less surveying also. They go through two or three sketches, and trace for two or three weeks, but I do not think there is sufficient out-of-door work; there is too much in-door study. They enter a college, in my opinion, a great deal too early to study for the sake of acquiring professional knowledge or attainments; they study, it appears to me, merely as a condition which must be fulfilled, to obtain a commission, but without any real love for the study itself; and I attribute that to their early admission.

1721. At what age would you admit them?—I would not admit them before 15. We always find that those who are admitted at a later age become better, and more useful men.

1722. When they are admitted, speaking generally, would you give them a purely military education, or would you give them the education of a gentleman?—I would give them the education of a gentleman decidedly, without reference to anything but a few indispensable professional acquirements; they should know a little of fortification and surveying, and be able to know how to apply their knowledge; but I certainly would not allow them to go so far as they do.

1723. Practically, at what age are they admitted now?—I believe at 13; it is not desirable, and I believe the Commander-in-chief is very unwilling to grant commissions to any young men till they arrive at the age of 18; and if boys are admitted at 13, and get through their course of study at 16, they are perfect boys when they receive their commissions.

1724. At the present moment commissions are granted to persons at a much earlier age than that, are they not?—No, very rarely indeed; if possible, none are given till 18; they are certainly not before 17; 16 is the prescribed age by the regulation, but it is not practically so, if it can be avoided.

1725. The examinations for commissions take place before you, do not they?—Only those at the college.

1726. The examinations for commissions in the junior department take place before the Board, do not they?—They take place before a quorum of the Commissioners; I am not always one of them.

1727. You have in the course of your duty attended those examinations; what is your opinion of them?—As I said before, they go into branches of study which are useless, as it regards military men.

1728. Do you mean useless as regards military men, or useless as generally opening the mind?—As to opening the mind, of course the farther they go, if they understand it, the better; but I do not believe that they do understand it; I think that they learn it mechanically; they get a certain number of rules by heart, and they can work out anything. I have never known any of those higher branches of mathematics practically applied.

1729. Have you any control over the examination?—None whatever; the Commissioners sit there, and they ask what questions they please, and point out what problems are to be solved, or what is to be done, according to the course which the committee have before them.

1730. The Board has a general superintendence over the examination, have they not?—Very little; scarcely anything is brought before the Board except subjects of discipline or complaint; they have nothing to do with the course of study, I think.

1731. The Board principally superintends the pecuniary affairs of the college, does not it?—They have entirely the control of the pecuniary part of the establishment.

1732. No expense can be incurred without going to the Board?—None whatever.

1733. Is the composition of the Board a satisfactory one?—Yes, inasmuch as it is composed of the official authorities, the Adjutant and Quartermaster-general, and others; but their duties are so very constant, that they can seldom attend. I think, since I have been in England, I have not attended more than thrice, and the Quartermaster-general not more than twice.

Major-Gen. *G. A. Wetherall.*

8 May 1855.

1734. Those are the two officers who more especially would be interested in the school?—Certainly.

1735. And you would especially be interested in it, having been educated there?—Yes.

1736. If the course of study was a bad course of study, who would be responsible for it?—The Commissioners.

1737. Has the Commander-in-chief time to attend to the school?—No, I should think not.

1738. Who is the responsible person of the Commission?—The Commander-in-chief and the Secretary of War, I believe, principally.

1739. Does the Secretary of War ever attend at these examinations?—I have never known it.

1740. Does the Secretary of War interfere at all with the course of study, and see whether it is such a course of study as is most beneficial to the public service?—Not to my knowledge.

1741. Practically, the course of study is settled at the college?—Yes, it has been settled for years, and I believe has not varied since I was there, except that it has gone higher.

1742. Was it originally settled by an order of the Commissioners?—I presume so.

1743. Colonel *North.*] You think that for the officers who are to go into our army, those who are not intended for the scientific branch of the army, the amount of mathematics at Sandhurst is more than is requisite?—Certainly.

1744. Do you think in the examination it would be advisable to have the professors from Woolwich, instead of the professors of the college, to examine the candidates?—I think it would be advantageous. Naturally, all the professors favour their pupils; I think it would be better that a change should be made. However, I do not mean to impugn the abilities of the professors at Sandhurst at all; but I think it would be an improvement.

1745. Sir *G. Tyler.*] You state that other studies would be more advisable than the extreme study of mathematics; what other studies would you recommend should be adopted?—I would recommend anything that is practical; nothing but practical trigonometry and mensuration, or more of practical surveying; things that can be brought into use by military men in the field, and other places. I would have less theory; I would have nothing done in the hall that was not immediately applied to practice out of doors.

1746. Mr. *Hardinge.*] Do you think it would be desirable to introduce the study of military history to a greater extent than it exists at present?—Yes, I attach great importance to it; I consider the text-book from which history is taught there, to be nothing but a list of dates.

1747. You would recommend such a book as Jones's Sieges, and other military works of that description?—No, I would recommend more historical works. In Dr. Chepmell's work there are I do not know how many pages given to the Agrarian Laws, which nobody cares to read, and the whole of Alexander's campaigns and Hannibal's campaigns are absorbed in a page and a half or two pages.

1748. Do you think that they carry the study of mathematics too far in the senior department?—No; men who arrive there at maturer age, study for studying's sake.

1749. Do you think that it is too high for a common certificate at the senior department?—Yes, I do think it is too high for a common certificate at the senior department.

1750. With regard to the non-commissioned officers, do you think it would be desirable to substitute any monitorial plan, instead of having the non-commissioned officers to report, as they do now, upon the conduct of boys out of bounds?—I have a great objection to that system of espionage; I think if two subalterns were added to the companies they would do the duty infinitely better, having one on duty every day.

1751. Mr. *Rich.*] You stated that you think the Adjutant-general, the Quarmaster-general, and the Secretary at War, have so many important duties to perform, that they have not time to devote their attention to the college?—Yes.

1752. Would you recommend, in substitution for them, any persons specially named as commissioners for the college?—There is another, General Murray; but they are all, with the exception of General Murray, official men.

1753. And,

1753. And, practically speaking, those who are named in conjunction with the *ex-officio* men, hardly feel justified in taking the initiative?—No.

1754. If some person was placed at the head of the Commission who would be more clearly responsible before the world for the good government of the college, do you think that would conduce to an improvement of the studies and the general standing of the college?—I do not know; the governor should be a responsible man.

1755. Would you make him more responsible for the active supervision or modification of the studies than the Commissioners?—Certainly; I would put that in the hands of the Governor; he would be the best judge.

1756. You stated that very little change has taken place in the course of study for many years?—They have advanced very much higher than when I was there; they almost begin where we left off 30 years ago.

1757. In that way the boys get a parrot knowledge of the higher branches rather than a thorough acquaintance with them?—All the younger ones do.

1758. You do not think, considering the age at which the boys enter, that two or three years are sufficient to imbue them with such a knowledge of mathematics as to enable them to cope with the higher branches?—Certainly not.

1759. You think that it is too high a study at that time of life to enter upon?—Certainly.

1760. You would therefore recommend a lower grade of mathematics, with a more thorough knowledge?—Yes, certainly; I would not admit them till they were 15.

1761. How long would you keep them?—Three years; such is the wish of the Commander-in-chief now, that if he can avoid it he never gives young men a commission till they are 18; it is impossible to avoid that in the case of the cadets from the Military College.

1762. Mr. *M. Milnes.*] Would you prefer that a boy should have a good fair general education up to 15, and that then he should have two or three years of a more exclusively professional education than he had obtained at Sandhurst?—Yes.

1763. Mr. *Rich.*] You stated that you would have a more rigid examination?—Yes.

1764. When you speak of history do you mean general history?—Yes.

1765. Do you mean ancient or modern history?—I think, both; but ancient history is very important; the best strategical lessons that we have are in ancient history.

1766. In our general histories the detailed accounts of military operations are not very full, are they?—Yes, they are; particularly as regard Alexander and Hannibal.

1767. You stated that you would have two subalterns in the place of the serjeants; do you think that the subalterns would be able to do the watching duty, as to the bounds and public-houses, in the same way that the serjeants do?—I would put the boys upon their honour; I would make the punishment very severe if they transgressed.

1768. You would make the under officers and lance corporals more responsible for the boys?—Yes.

1769. Mr. *M. Milnes.*] If you established that rule of not admitting boys before the age of 15, would you not completely destroy the use of Sandhurst as a provision for any charitable tendency?—I think you would diminish it, certainly; inasmuch as the sooner the parents of those boys can settle them in life, the better; but I am speaking now of the advantage to the service.

1770. Might it not be possible to have a general system adapted to your wishes, and at the same time to have a junior branch, either at Sandhurst or somewhere else, exclusively adapted for charitable purposes?—Yes, certainly; for example, I think the orphan company should be restored for that purpose as much as for anything else; I would make the junior department more a college and less a school.

1771. Do you not think that the children of officers who die in the service of their country, and who leave scanty means for the education of their children, are very fit recipients of the public bounty, and that that bounty might be bestowed by means of educating their sons for the army?—Certainly.

1772. Do you not think that if that system were more largely acted upon, it would be a just encouragement to officers in general?—I do.

Major-Gen. *G. A. Wetherall.*

8 May 1855.

1773. Do you not think that such a system as that would considerably modify the disadvantage which a poor man may now have in the service connected with the system of purchase?—Without doubt.

1774. Has there not been, nevertheless, some objection in some branches of the army to the introduction of young men into it without sufficient means?—Yes. It is scarcely possible, I think, for a young man to live in the army unless he has 60*l.* as the minimum, and 100*l.* as the maximum, besides his pay; but I know a great many examples of men who have passed, and have been many years in the army, without a shilling beyond their pay, and who have saved money upon it.

1775. Does not that rather increase the difficulty of breeding up young men in a charitable establishment for the army?—I think that extravagant system in the army should be reformed.

1776. Could you recommend any form of studies for the junior department which you think would promote the vivacity and energy, and bring out the military dispositions of the boys, more than is done at present?—No; because the education is almost military. I am for making it more general and less military.

1777. Did not you state that you wished the mathematical education to have a more immediate application to military matters, and also that studies of an historical character should be more turned in a military direction?—Yes, I said so.

1778. Is not that rather opposed to what you say now; that you wish the education to be more general?—No. I think that a great deal of time is wasted in the study of the higher branches of mathematics, which might be better disposed of.

1779. Could you give any direction to the present studies which would make a young man, when he left the college, a more able soldier than he is at present?—No, I do not know that I could; I do not think that I could.

1780. Would you say, that for practical and soldierly purposes, you are generally well satisfied with the results of the present system?—Yes. I maintain only that it would be better if they entered at a later age, because then they would be better qualified to join their regiments than they are now. At present, they soon forget everything that they have learnt, when they join their regiments.

1781. With regard to the moral bearing of the army, is it not a considerable increase of the danger, the admitting young men at a very early period of life?—Certainly.

1782. Mr. *Hardinge.*] They would, to a certain extent, be in an inferior position if admitted to the college at 16, compared with those admitted to the army by purchase at an earlier age; but the advantages that they would gain by study, would compensate for that?—Yes; I would admit them to the college at 15.

1783. The time of study would compensate for that disadvantage which I have stated?—Certainly; but it is very rarely that young men who purchase commissions get them at the age of 16, or 17 either.

1784. Mr. *M. Milnes.*] You have generally shown an unwillingness to admit under 18?—Certainly.

1785. Has the tendency of late years been rather to require that they should be of that age?—Surely it has.

1786. Do you find that the young men who obtain commissions from Sandhurst are much better educated for military purposes, and much fitter for immediate military action, than young men who come from the world generally?—Certainly; they are sooner able to enter upon their military duties than others who have been educated at public schools; they go through a course of drill at the college, which occupies some months.

1787. Would you think it advisable to extend the system of military education to other establishments besides Sandhurst?—No; I think Sandhurst supplies more men now than they are able to find commissions for when they pass their examinations.

1788. Supposing the probabilities of a continuous war to be more imminent than they have been lately, would you desire to see a larger system of education established?—I should, I think, prefer to see the numbers a little increased certainly, although some of our best staff officers have never been at the college.

1789. You would therefore object to making it a *sine quâ non* for admission to the army, that a man should have been educated at a military college; you think it would be contrary to our general system?—Decidedly, I think so.

1790. Is not that the case with almost every other army in the world?—I believe it is; but it is not consistent with English opinions; it is very desirable that the military should not form a separate class in England.

1791. Do you think there would be any objection to making some short military education at the college a necessary preliminary for introduction into the army?—I think it is useful, but not necessary; I do not think any military education is necessary for introduction into the army at all. I think most young men having received a military education, enter earlier upon their duties than civilians; but in the end, I do not think they are better officers.

1792. Would not it save a great deal of time and trouble in regimental duty, if every young man who joined a regiment had had six months of military training at some military establishment?—Surely.

1793. Might not that be effected without much difficulty?—I should imagine it might, if you introduce military education at all our public schools.

1794. Is not it the custom at present to send a young civilian to the depôt for the purpose of military education before he is sent into active service?—Certainly.

1795. You have spoken of the advisability of teaching practical mathematics; would you think it advisable that a young man who had to enter the line should be instructed in any way in the practice or science of artillery?—Certainly; they are taught it at the college; but it is a part of the necessary drill of every officer and soldier now in the army, when they do join their regiments, they work the guns.

1796. Mr. *Hardinge.*] Are the boys taught that at Sandhurst?—Yes.

1797. Lord *Lovaine.*] When was the regulation introduced enforcing artillery drill upon officers and men?—In the Duke of Wellington's time, I suppose some 10 or 12 or 14 years ago. In every barrack abroad guns are provided by the artillery, and artillery officers or men are appointed to instruct every soldier and officer in the regiment, and it is a part of their necessary drill.

1798. Mr. *M. Milnes.*] Has every regiment the means of enforcing that edution?—Where there is artillery.

1799. Have the majority of regiments artillery at hand for the purpose?—Yes; in every garrison there is artillery; the majority of regiments have artillery; I suppose there is no head-quarters of a regiment scarcely quartered anywhere without artillery. I speak of the colonies and foreign stations; not of England.

1800. Therefore, has an officer who joins his regiment in England the means of acting upon that order?—No, not always in England.

1801. Would you think it advantageous, therefore, that every young man who joins the army, or who leaves Sandhurst, should be instructed for a short time in the practice of artillery at Woolwich, or some place where artillery practice could be taught?—I think it very desirable, certainly.

1802. Do you think that a knowledge of the practice of artillery is very important for officers of the line in the ordinary field operations?—I think so: many circumstances may arise in which the artillery would be useless if the officers and men of the line could not take the place of the artillerymen, who are generally few in number, in case they were killed.

1803. Colonel *North.*] You refer to regiments which are at home, not being quartered at stations where there is artillery; at Plymouth, Portsmouth, Cork, and other places where artillery is quartered, there would be the same means of learning artillery practice as at foreign stations?—Yes; and it is taught now at those places.

1804. Lord *Lovaine.*] Your remarks do not apply to the use of artillery by the line in field operations?—As regards artillery, both, if necessary; they are practised both with battering guns and with field artillery in every barrack that I know.

1805. Practically, in the field no men of the line are ever employed in working field guns?—Seldom; never, except in case of necessity in active operations.

1806. No military education, properly so called, can be carried on anywhere but at a regiment or a depôt?—No.

1807. Mr. *Hardinge.*] Is it equally desirable an infantry officer should go

Major-Gen. *G. A. Wetherall.*

8 May 1855.

through a course of cavalry drill?—It would be advisable, of course, where he was quartered with a cavalry regiment.

1808. Lord *Lovaine.*] Do you think it would be possible to carry this system of military education further then the mere working of guns at the larger garrisons?—Certainly; and I think it is very much to be deplored that it is not carried out.

1809. Colonel *North.*] With regard to what you stated that a young officer should have a certain allowance, which perhaps an orphan could not receive, would you see any objection to the education at Sandhurst if it were made so that the orphan of an officer could be educated for any profession except the church; for instance, if he showed a talent for foreign languages, that the prizes of our public departments, such as the Foreign Office, the Ordnance, Somerset House, and the Admiralty should be held out; would that be a boon to those officers?—Undoubtedly; a greater boon than giving them commissions, because no outfit would be required.

1810. With regard to orphans, do you think it would be advisable that they on starting into life, should receive the same donation that is given to a non-commissioned officer, of 100*l.* for infantry and 150*l.* for cavalry, so as to give them an outfit, and start them fairly?—I think it very possible that if that measure was pursued, young men would keep out of debt; the original outfit is the cause of their getting into debt.

1811. It has been stated with regard to the first class, which is the 40*l.* class, that a greater number of candidates apply for admission to that class, than can be admitted, do you think it would be a boon to the officers of our army, if that class was extended from 25 to 50?—Certainly, very great.

1812. If it could be managed, do you think that it would be advisable for all the officers of our army to pass through Sandhurst?—No.

1813. Do you think the general education of a public school is as good an education as an English gentleman who wishes to be an officer need have?—Certainly; the Duke of Wellington laid it down as a rule, that the education at the public schools should be sufficient for admission to the army; but I am a great advocate for making officers study before giving them promotion.

1814. That is, with regard to the practical part of their profession?—That is with regard to the practical part of their profession.

1815. Lord *Lovaine.*] Do you think it possible that a higher class of qualifications being insisted on for the regimental schoolmasters, they might be made use of in teaching mathematics to the officers who are willing to learn?—Yes; but I do not think they would exercise much influence over them. I think that their instructors should be men of rank, and men who could enforce obedience.

1816. Colonel *Dunne.*] You would propose that no officer should go into the army until he was 18 years of age; would not that throw the promotion of an officer very far back, in comparison with those who entered before that time?—It would, a little.

1817. Would a man receive any benefit by superior instruction, in comparison with the time he lost?—I think so.

1818. Would he be more likely to obtain promotion than a man who went into the army perfectly ignorant at 16?—No, certainly not.

1819. Would not it discourage men to go to college if they were to be kept back till they were 18, if they could not possibly attain an earlier commission?—I think not.

1820. Mr. *Hardinge.*] It would not make above a few months' difference?—No.

1821. Sir *G. Tyler.*] Do you not think that the admission to the college of a young man of 15, with a prospect of obtaining his commission provided he passed a regular examination, would be sufficient inducement to him to enter the college in preference to purchasing a commission?—I think so. It is practically purchasing a commission if they are there three years, at 150*l.* a year; they get an education as well.

1822. *Chairman.*] What effect would the change of age have upon the discipline of the college; it has been represented to the Committee that it would be very inconvenient as regards discipline to have young men from 17 to 18?—I do not think it would have any effect upon it; they probably might be a little more unmanageable, but I would make the penalties for offending more severe.

1823. At the present moment you call them boys; but you cannot call a man of

of from 17 to 18 a boy?—No. I do not think it would have any injurious effect upon the discipline of the college at all. Major-Gen. *G. A. Wetherall.* 8 May 1855.

1824. With regard to the senior department, you were there yourself?—Yes.

1825. At that time it was at Farnham?—Yes.

1826. Do you think it an advantage that the senior department should be at a distance from the junior department?—I think so.

1827. On what grounds do you think so?—Boys will necessarily associate with officers and make each other idle, I think. They are kept apart as much as possible at the college now, I believe; but I think they interfere with each other's studies, and it diminishes the number of professors very much; for example, at the senior department, I believe they have only two professors at this moment instead of having one for each branch of study.

1828. Supposing both establishments were adequately supplied with professors, would you still think the separation would be advantageous?—I think so; I think the officers teach the boys manly tricks; they preach independence and that sort of thing to them, and the boys ape the manners of the men.

1829. That is, supposing that those of the senior department are not very well fitted for their position?—No; I think it is natural.

1830. Which does it injure, the senior department or the junior department?—The junior department, I think.

1831. You are aware of what is necessary for the entrance into the senior department; are you of opinion that that is sufficient, or would you make it more difficult to enter?—No; I think the examination on entrance to the senior department is quite sufficient.

1832. What is that paper which you hold in your hand?—It is the course of examination which is pursued with all officers of the senior department, and it shows what they are expected to do at the expiration of every half-year.

1833. Will you have the goodness to deliver it in to the Committee?—Yes.

[*The same was delivered in, and is as follows:*]

HALF-YEARLY EXAMINATIONS of the OFFICERS of the SENIOR DEPARTMENT of the ROYAL MILITARY COLLEGE.

Officers in their First Half-year's Residence.

The first six Books of Euclid; in permanent fortification; the drawing of the plans, and study of the construction and principles of the three systems of Vauban; and the pen and brush examples of military drawing and plan of position.

Officers in their Second Half-year's Residence.

The last three Books of Euclid; practical geometry on the ground, plane trigonometry, and mensuration; the remainder of the course of permanent, and first half of field fortification (including the drawing, study, and tracing on the ground of 10 plates of the latter); and the sketch, under the professor.

Officers in their Third Half-year's Residence.

Algebra, and spherical trigonometry; the last half of field fortification; and the private, squad, and trial sketches.

Officers in their Fourth Half-year's Residence.

Conic sections, and practical astronomy; attack and defence of fortresses; and final sketch of position, with an advance or retreat to or from it; horsemanship and languages.

COPY of GOVERNOR'S ORDER of the 2d February 1848.

THE Governor considers it necessary to direct that in future all extra plans sent in by officers studying at the senior department, as claims to special mention, shall be subject to a very rigorous scrutiny. Besides the general and indispensable correctness of the features of ground, the Governor expects that extra plans shall show with accuracy all those details which

Major-Gen. *G. A. Wetherall.*

8 May 1855.

which are so important in military operations; and that each shall be accompanied by an explanatory and full report as to the roads of every description, both direct and cross, with their capability for artillery, cavalry, and baggage. The woods, whether passable, and for what arms. The rivers, with their bridges and fords. The brooks and small streams, stating whether and where they are fordable, and the general supply of water. The conveyances and means of transport used in the country, and how many of each might possibly be collected and horsed, should occasion arise. The mills. The villages, specifying what number of troops might be cantoned in each, their capability of defence, and whether they possess any building which, in case of need, might be converted into a keep or reduit. The farm-houses and their inclosures, with a view to their being strengthened, and becoming part of a defensive position. The soil, population, and general resources of the district. The Governor will set a further value upon the plan and report, in proportion as they contain information and details which could be relied upon by a general officer about to conduct operations in the country surveyed.

1834. Do you consider that a proper course of study, or are there any suggestions which you would make for the improvement of it?—No, I think it may be well left as it is for the senior department; still, I think, they should have a little more out-of-door work as well as the boys.

1835. Do you consider that the number of professors that are now attached to the senior department is adequate?—I think, certainly not. Mr. Narien, I believe, is the sole instructor in everything except in surveying and sketching.

1836. Are you sufficiently acquainted with the establishment as it now exists, to be able to state to the Committee what would be necessary to make the senior department efficient as regards the instructors?—Yes. I would have a separate professor of fortification, a separate professor of mathematics, and a separate professor of languages.

1837. What languages do you speak of?—Any modern languages; French or German principally.

1838. You would teach the languages in the senior department?—Yes, certainly.

1839. Would it not be sufficient, as French is a study which can be pursued before entering the college, to require a certain amount of French before they enter?—Surely; with the senior department, certainly.

1840. The whole time they were at the military studies they would be able to dedicate more time to military study?—Yes; but still the study of French or German should be pursued, I think. In their examination it should be made a *sine quâ non* for their passing.

1841. With regard to history; do you think that military history should be a subject of study at the college?—Certainly.

1842. Is there any means now, of studying military history?—None exclusively for the senior department; I do not think that they attend much to it. I have never seen any of the senior department examined in history.

1843. Do you think the examination is sufficient?—I do.

1844. You have undergone that examination, and have been present at the examination of others, have you not?—Yes.

1845. Would you suggest that the examination should take place by professors from other colleges; would you make the same recommendation with regard to the senior department that you made with regard to the junior department?—Certainly.

1846. Have you any means of showing the Committee that those who have come from the senior department have distinguished themselves, or, in their service afterwards, shown a superiority to other officers; is there any record of what has become of those officers who have passed the senior department?—Certainly, in the college; there is nothing but what is recorded in this memorandum where the names of some men who are eminent as civil engineers occur. There is Major Jackson, the present professor of surveying at Addiscombe, and Captain Macaulay, who is professor at Woolwich. They were brought up at the Military College. Major Moorsom, one of our most celebrated engineers, is another. Major Straith, and several of the professors at the college now, were brought up at the college as cadets; and Colonel Adams and Colonel Prosser.

1847. Have they generally become professors and been attached to the home establishment, or have they been active in the field?—I do not think any of these I speak of have been much known in the field; not at all.

1848. Are there any peculiar advantages for employment in the case of those who

Major-Gen. *G. A. Wetherall.*

8 May 1855.

who have passed well at the senior department?—None; except a few staff appointments, which are open to them.

1849. Have they any preference for staff appointments?—Latterly they have had.

1850. During the peace, practically, was there any preference given to those who had passed at the senior department?—I can scarcely answer the question; I should say not.

1851. Have you seen what situations those who have passed have held?—I know a great many staff officers who never were at the college, and several who were; I do not know that any preference was given to them.

1852. Mr. *Hardinge.*] There has been a preference shown to officers educated there latterly?—A very great preference.

1853. *Chairman.*] Why is that?—I cannot possibly tell.

1854. Was not it on account of the supposition that they were better fitted for staff appointments?—Probably so.

1855. That supposition arises from their having had a better education, does not it?—Yes, surely.

1856. Was not that supposition correct 10 years ago, if it is so now?—Yes, certainly.

1857. Only they did not get the benefit of it?—No.

1858. Sir *G. Tyler.*] In appointing a staff officer is attention paid to the certificate produced for his appointment; is a first-class certificate a passport to him?—Yes; in the late appointments to the staff of Lord Raglan's army a *carte blanche* was sent down to the Governor of Sandhurst College to name such persons as he thought fit for appointments on the staff, and they were all appointed.

1859. *Chairman.*] Are you aware of a similar application being made to the head of the college in former times?—I am not aware of it.

1860. In the time of the old war, it is mentioned in the life of General Le Marchant, that it was very much the habit to send to the college when they wanted staff officers to get a recommendation; was that system carried on during peace?—I think not.

1861. Has the senior department been full from time to time?—No.

1862. Do you attribute that to the want of encouragement to the officers who have taken certificates when they have left the college?—I do.

1863. Do you think that it is owing to the want of encouragement that officers have not gone to the senior department to acquire professional knowledge?—I do.

1864. Is it your opinion that the staff appointments should be confined to officers who have taken good certificates at the college?—Certainly not.

1865. Are you of opinion that there ought to be a special staff corps?—I think there should not be one; it is not compatible with the present regulations of the service; it would be impossible to effect it, inasmuch as the late Military Commission has directed that all staff appointments shall be limited to five years at home and six years abroad. The staff appointments do not exceed 50 in the whole army, excluding of course the principal staff and the aides-de-camp; and if you had a staff corps composed of 100 officers, and you sent 50 to fill those appointments at the end of five years, you would send that 50 back to do nothing.

1866. Are you of opinion that a staff officer taken from the general service, before he is employed should pass any examination, with a view of ascertaining whether he has professional knowledge?—Not if he is known to be a good officer. There are various qualifications required for the staff. In the Adjutant-general's Department no scientific knowledge is required; the adjutant-general has only charge of the *personel* of the army. The Quartermaster-general's Department is the scientific branch of the service; he has all the movements of the troops, the occupation of ground, the plan drawing, and such things.

1867. The Quartermaster-general's Department is a scientific department?—Certainly.

1868. Confining yourself to the Quartermaster-general's Department, are you of opinion that it would be wise to have any sort of examination to ascertain an officer's qualifications before he was appointed to the Quartermaster-general's Department?—I do.

1869. Would there be any difficulty in doing that?—None whatever.

Major-Gen. *G. A. Wetherall.*

8 May 1855.

1870. Do you not think that you perform your duties better from having been at the college?—Certainly; no doubt about that.

1871. You have found it an advantage?—Surely; but still it is not indispensable.

1872. With regard to the personal staff, would it not be an advantage to have a personal staff with some degree of military and scientific acquirements?—I think it would be very advantageous. The personal staff is generally composed of the friends of general officers; they are generally members of their family, who live at their table, in whom they have confidence, and they are unwilling to receive strangers, however scientific they may be.

1873. Do not you think it would be an advantage to have some sort of certificate that those officers have a certain amount of scientific acquirements?—Undoubtedly.

1874. Would it cramp the choice of the officers in their aides-de-camp inconveniently to require such a certificate?—No; except as regards their own personal feelings towards individuals. I think there is a large field to choose from, of young men highly talented.

1875. Have you fallen in with any of the French staff?—No; very little indeed.

1876. Mr. *Hardinge.*] You would not fix the standard of examination for the personal staff as high as you would for the general staff?—It is not requisite for the duties which they have to perform; but I should think that the same examination should be undergone by all.

1877. What sort of examination would you propose for the officers appointed to the personal staff?—I would have them go through the course of the junior department.

1878. Colonel *North.*] You would also require that they should be good riders?—Yes, that is indispensable; that is now taught in the college in both departments.

1879. Would you confine the age of the officers going to the senior department to 25 or 30, or any particular age?—You never can teach them anything when they get old. I think I would exclude all officers above the rank of captain.

1880. And you would confine the rank of captain to a certain age?—Yes, I would confine the students at the Military College to the rank of captain.

1881. The number of officers in the senior department is now 15; would you think it advisable to increase that number?—Certainly; I think it would be advisable to double it. The number used to be 30.

1882. Mr. *Hardinge.*] Where did they live when the number was 30?—They were all in the town of Farnham; they hired houses and had lodging-money.

1883. Colonel *North.*] Now that the two camps at Aldershott and at the Curragh are about to be established, do you think it would be advisable to have the officers of the senior department attached to those camps?—Yes, I think it would be very useful.

1884. *Chairman.*] Would you have them permanently placed near Aldershott?—Yes, during the encampment, to let them take six months about.

1885. You would take a station near Aldershott the whole year round?—Yes, as a *bonâ fide* staff at Aldershott; I do not mean for the purpose of pursuing their studies.

1886. Do you think it advisable that after passing the senior department they should be attached to Woolwich for any time?—Yes, it would be very advisable, I think.

1887. Colonel *North.*] Do you think it would be advisable that they should go through the Chatham course as well?—Yes, certainly.

1888. *Chairman.*] Are there any facilities for officers studying at Woolwich and Chatham?—I cannot speak of Woolwich, but at Chatham officers used to be invited, and permission was never refused to those who wished to attend the course of experiments carried on by General Pasley or General Jones.

1889. During that time had they the same allowances as at the senior department?—No, they had no additional pay or allowances.

1890. Did many officers avail themselves of that permission?—Not many; I think, seldom more than six or seven at a time.

1891. Sir *G. Tyler.*] Are the officers at the senior department belonging to their

their regiments now generally on full pay?—Yes, generally so; almost always.

1892. Remaining there for two or three years, they are absent from their regiments, as a matter of course?—Yes, their regiments being always at home: an officer whose regiment is abroad is not allowed to go to the senior department, unless he is prepared to embark for foreign service when he is called upon to do so.

1893. *Chairman.*] Is it your opinion that all the officers who go to the senior department go for the purpose of study, or do some make it a convenience?—I think some make it a convenience.

1894. In what way could that be checked?—It would be difficult to check it; married men are often anxious to get away from their regiments.

1895. Any officer who applies is admitted, is he not?—Yes, provided his commanding officer approves, and he comes within the condition that his regiment is at home.

1896. Mr. *Hardinge.*] Would it be desirable to have a more severe examination on entrance?—No, I think the examination for the senior department is quite sufficient.

1897. That would check, to which you have referred, in some measure?—It would check it in some measure.

1898. Lord *Lovaine.*] If you made a selection amongst the officers educated at the senior department for the staff, and that was to be the rule, it would be unfair to a great number of regiments, would not it?—Certainly; it would operate very much to the prejudice of many practical and good officers.

1899. Of course a great and inconvenient number of officers would then apply to be educated at the senior department?—Yes, no doubt it is an additional reason for appointing officers on the staff.

1900. In the event of a great number of officers applying to have the benefit of the education at the senior department, it would be difficult to make a selection, would not it?—They must be taken in their turn; the governor appoints them in their turn, without favour or affection, I believe.

1901. The list is not always full, is it?—I imagine that it cannot be full; I never saw the list.

1902. *Chairman.*] Do you know instances of officers who have been educated at the senior department, who have given up the service from finding that they had no encouragement?—I do not know any instances of that kind; I have heard numerous complaints, but I never heard any instance of officers retiring from the service on that account.

1903. Sir *G. Tyler.*] With reference to the supposition that officers occasionally go to the senior department for their convenience, do you think it would be advisable to confine the students at the senior department to unmarried men?—No, I should be sorry to do that.

1904. Mr. *Hardinge.*] With regard to this staff corps, would there not be considerable difficulty about the promotion of such a corps?—Certainly; it must be very slow.

1905. Would it not be quite as slow as that of the engineers?—Yes.

1906. Do you think that much time is lost in the senior department by the high finish of the maps and military drawings?—Yes, in both departments that is the case, I think. A great deal of time is wasted in very highly finished drawings, and too little time is given to the rough practical sketches, which are the only ones made on service.

1907. Sir *G. Tyler.*] The Committee have had it in evidence that the art of printing takes up a great deal of time in the junior department; do you think it would be advisable that a legible hand should be substituted for the peculiar art of printing?—Certainly.

1908. Mr. *Hardinge.*] Would you insist upon a certain knowledge of French or German, on entering the junior department?—I think so, certainly.

1909. That is not insisted upon now, is it?—No.

1910. Is it insisted upon on the final course for a common certificate?—Yes; that is to say, a knowledge of the grammar.

1911. Is the standard of those languages sufficiently high?—No, certainly not; I have never heard a word spoken in either language upon any examination at which I have been present; they read and translate and parse, but they begin at the wrong end.

Major-Gen. *G. A. Wetherall.*

8 May 1855.

1912. They are not required to converse?—I think not.

1913. Do you think it desirable that they should, at the final examination, be required to converse?—Yes.

1914. Is the parsing from French into English, or from English into French?—Both.

1915. With regard to a staff officer, the power of being enabled to converse fluently is a great desideratum?—Yes, infinitely greater than any other knowledge of the language.

1916. Colonel *North.*] There is one part of the regulations which has been complained of, which is the certificate that the parents are obliged to give, that they will not give their sons more than 1*l.* during the whole year. A gentleman mentioned to me that he had three sons; the eldest son was at Sandhurst, and the other two sons were at Eton: the two sons who were at Eton could not get on with their 1*l.*; and when the gentleman went down to Sandhurst, his eldest son was rather finding fault that the other boys were having a great deal more; and, without any hesitation, the several shopkeepers presented orders from the parents authorising them to trust their sons to any amount. Such being the practice, do you not think that it would be much better to leave the matter entirely to the discretion of the parents?—Yes, I think so, certainly.

1917. Sir *G. Tyler.*] The same system is adopted at Woolwich?—I believe it is; it is a system that cannot be carried out.

1918. *Chairman.*] How would you check expense on the part of the boys, except through the parents?—It is better for a parent to give a boy a little more money, than to allow him to run into debt.

1919. You consider 1*l.* too low?—Yes, I think so, for modern times.

1920. Would you get rid of all limit?—Yes, I think I would leave it entirely to the parents.

1921. Do you know the expenses at the public schools?—Only as regards the sums which a parent chooses to give to his boy.

1922. With respect to the sum which a parent gives to his boy, a representation is made to him of what his schoolfellows get, and unfortunately a poor man is obliged to give to his boy more than he would willingly give, as pocket money, because the other boys have the same; do you not think that there is advantage in checking that system?—I do not think that follows.

1923. Sir *G. Tyler.*] I believe that at Sandhurst the boys have a weekly allowance, independently of the money that they bring with them at their return after the vacation; according to their class, they have each so much allowed them a week?—I believe they have.

1924. The object of confining this sum is not to curtail a boy of common advantages, but to prevent his entering into expenses which may lead him into scrapes probably?—A parent may certify that he has only given his boy a pound, but the uncle gives another, and the brother a third; I think that you are cheated in that way. The principle may be a good one, but I do not think it is practicable, and therefore it is useless.

1925. Then, in fact, you would not confine the sum to any amount?—No; certainly not. I would make it like all other schools.

1926. Mr. *Hardinge.*] As it is very desirable that a staff officer should be a good horseman, do you think it would be desirable that he should go through a sort of riding-school drill at the senior department?—I think they do so now, but they are not examined in it.

1927. It is not compulsory, is it?—I believe not.

1928. Do you think it would be desirable that it should be made compulsory?—Certainly; a staff officer is useless unless he can ride well.

1929. Many of the officers of the senior department do not keep horses?—Only when they get into a certain class, and they go out to make sketches, then they draw forage for a horse.

1930. Do they hire horses?—No, they generally keep their own, at least they did in my day. I fancy they do now, and they only draw forage when they begin to sketch practically.

1931. Supposing an officer cannot afford to keep a horse during the time he is there, what does he do?—He would find no difficulty in hiring a horse for the forage allowance.

1932. Do you think it would be desirable to allow him forage during the whole period he is there; if he keeps his own horse?—I think that would be better;

better; it would encourage him to go and see the country. I have no doubt that every man in the villages there, would alway be responsible for finding a horse when required for every officer, upon receiving the forage allowance.

1933. Are they ever allowed to use the troopers for that purpose?—Never, I believe.

1934. *Chairman.*] Are you present at the examination for the general commissions?—No, only at the examination of cadets sometimes; never for the civil candidates for commissions.

1935. Are you present at the examination of those who receive their commissions direct, without going through the college?—No; no commissioners are present then, it is done by the Collegiate Board.

1936. The papers are sent up to the Commissioners, are they not?—In doubtful cases they are.

1937. Do they come before you?—No, they are sent to the military secretary of the Commander-in-chief.

1938. Upon what principles do the Horse Guards act in giving a commission, or not doing so?—They act very fairly. If they find that the questions which a boy cannot pass are not very material, they allow the boy to pass.

1939. Do you think that any boy who has had a fair education would pass that examination, from what you know, supposing he has a fortnight or a month previously to make himself master of the small quantity of fortification that is required?—Yes, I do, certainly.

1940. Are you a friend to an examination before an officer enters the army?—No.

1941. Do you object to it altogether?—I would only be satisfied that he had received the education of a gentleman.

1942. Do you call the examination for entering the army at present a military one at all?—Yes.

1943. In what shape is it military?—With regard to fortification, for example.

1944. How long would it take to obtain that quantity of information which is required to be gained for the purpose of passing the examination?—A week, I think.

1945. Is there any other part of the examination which really is military?—No, I do not think there is.

1946. On the whole, as it at present stands, except as regards fortification, it is an examination that any young man of decent education ought to pass?—I think so.

1947. You would have an examination in general education?—Yes; merely a sufficient certificate that he had received the education of a gentleman.

1948. You are speaking of an examination afterwards; to what do you allude?—An exclusively professional examination. There is an examination now before an ensign can be made a lieutenant, and a lieutenant a captain; but it is merely as relates to drill and the management of a company, and a knowledge of the Articles of War. I would extend that, and make it an examination into the higher branches.

1949. By whom is that examination conducted?—By the three senior officers of every regiment.

1950. It is not scientific at all?—Not at all.

1951. Is there any objection generally felt in the army to such an examination?—No.

1952. You would strengthen that examination?—Certainly; I think it is of the greatest importance that young men should be obliged to study for the first four or five years after they enter the army.

1953. Have you formed any idea what the examination should embrace?—I would examine them to a certain degree in mathematics, trigonometry, and all those practical branches which are indispensable, I think, to a scientific soldier.

1954. Viscount *Monck.*] You think that knowledge of that kind is indispensable to a staff officer?—Certainly, to the higher branches of the service.

1955. *Chairman.*] Would you allow any officer to be promoted who was not capable of passing such an examination?—There are several instances of officers whose promotion is stopped now, because they cannot pass the common professional ordeal.

Major-Gen. *G. A. Wetherall.*

8 May 1855.

1956. Supposing an officer distinguished himself in the field, is he still required to pass that examination?—Yes; there is no exception.

1957. In a case of distinguished gallantry, would that be so?—No.

1958. That would be quite sufficient to override the rule?—Yes, it would; he is promoted for his services.

1959. For the officers, at least at present, all the means of obtaining a scientific education for the examination is what they may learn in their regiments?—Yes.

1960. Have they the means of learning anything else?—No.

1961. Has any plan been suggested to the Horse Guards for obtaining that education?—Mr. Sidney Herbert proposed a plan some months ago, which I think was to establish professors at the principal military stations in the United Kingdom, and to establish libraries there, and give them every opportunity of studying.

1962. Is there a military library at every one of the military stations?—At every station.

1963. To what extent does that library go?—It embraces subjects of every description for the soldiers and the officers, in every branch of science and literature almost.

1964. Is there anything in the shape of lectures or instruction going on at Plymouth, for instance?—No, not that I am aware of.

1965. Is it your opinion that it would be an advantage with regard to fortification and other professional studies, if officers anxious to obtain information had the power of attending lectures and receiving instruction?—Certainly it would be so.

1966. You think that there would be an improvement in the service?—Certainly.

1967. Do you remember the particulars of Mr. Sidney Herbert's plan?—I read it with much attention when it came out; I believe it was to establish at five or six different stations or more in England, experienced men as teachers, with libraries and instruments, at which every officer would have an opportunity of studying if he chose, not making it compulsory at all; but that before officers could be promoted, a report of their progress should be made to the Horse Guards, where they were to be examined, I think, on certain points; certain questions were to be given to them, I think in writing, and I think each candidate had his cypher, so that nobody might know who it was, and that cypher was to be alone in the possession of the Commander-in-chief; and the examiners, who were to be men selected for the purpose, should decide which were the best; and when the reports of the examiners were sent to the Commander-in-chief, he alone could tell by the cyphers who were the successful candidates for promotion.

1968. Was that plan in writing?—I have never seen it since it passed through my hands.

1969. It was in writing at that time, was it?—Yes.

1970. Was it a paper sent from the Secretary of War to the Horse Guards?—Yes, to each department, for their own opinion and report upon it.

1971. Where is that paper now?—I think a copy of it is in the possession of the Military Secretary.

1972. Colonel *North.*] Do you think that as long as our army is subject to being so much detached, as it is in Ireland and other places, it would be possible for the officers to avail themselves of that plan?—Yes, certainly. We hope that they will not be so detached in future.

1973. *Chairman.*] What was your opinion as to that plan, when it was laid before you?—I almost forget now. It went, I think, to the exclusion of all officers who could not pass a certain examination; and that part of it, I think, I objected to.

1974. You would not object to any system which would give the officers an opportunity of educating themselves at different stations, would you?—Certainly not.

1975. Lord *Lovaine.*] How would that plan be carried out with regard to the colonial service?—It would be more difficult; but there is no reason why it should not be carried out in the colonies. It is a matter of pounds, shillings, and pence. It would be more easily accomplished in the colonies than it is now at home, inasmuch as the regiments are very seldom detached; they are always together there.

1976. They are not so in the minor colonies?—Except in the West Indies.

1977. *Chairman.*]

1977. *Chairman.*] There is generally artillery in those colonies, is there not?—Always.

1978. And an artillery officer could give instruction on fortification, could he not?—Yes.

1979. In the colonies, is there a regimental library attached?—Yes, every where.

1980. Mr. *Hardinge.*] Of course you would except cases of gallantry in the field with regard to the promotion of an officer?—Yes. I would not exclude officers from staff appointments who had not passed an examination.

1981. Lord *Lovaine.*] In Australia, where they have cut down the number of troops, and limited them so much, and where the detachments are principally employed in furnishing guards, how could such a plan be carried out?—I believe in Australia the regiments are very much together. They are very strong there, stronger than in the other colonies; double the amount. For example, the whole of the 40th is at Melbourne; and the 58th, in New Zealand, is divided only into two parts; there are no minor detachments that I am aware of. The West India Islands is an exception; but they are much concentrated now at Barbadoes, and Trinidad, and Jamaica.

1982. In Canada they have concentrated the regiments very much, but formerly they were very much detached, were they not?—No, there were few minor detachments.

1983. Sir *G. Tyler.*] Presuming that an officer on foreign service came to his promotion either by rotation or other circumstances, and there was no scientific person to examine him as to his proficiency, would he be placed in the position in which he ought to have been if he had passed that examination?—I should think they would shape the best certificate they could; the general officer on the station would assemble the best Board he could.

1984. Viscount *Monck.*] The tendency of the system would be to cure that evil, would it not?—Yes, if they extended it to the colonies.

1985. Mr. *Hardinge.*] Would this plan apply to the promotion of persons holding the rank of field officers?—No.

1986. Colonel *North.*] No entrance examination could be expected from a person who rose from the ranks; it would be impossible to enforce any examination?—No, it is never thought of.

1987. Lord *Lovaine.*] Would you enforce such an examination when they come to rise higher?—No, I think not; it is almost impossible that they could attain it.

1988. Mr. *M. Milnes.*] Who established the system of examination for commissions?—The Duke of Wellington.

1989. About what time?—Not long before he died; two or three years before his death, I think.

1990. Had it been urged upon him?—I do not know, I am sure; I fancy it was the popular outcry out of doors that caused it.

1991. You stated that the papers were sent up to the Military Secretary?—Yes, to the Military Secretary.

1992. Has he the full responsibility of their admission or rejection?—No, they are submitted to the Commander-in-chief.

1993. The system, as the Committee have been informed, is, that when any of the candidates are not considered to be sufficiently well informed upon any one subject, an opportunity is given them of being re-examined upon the points on which they have failed?—Yes.

1994. Do you know whether any considerable number are ultimately rejected?—I should think very few.

1995. Who would be a fit person to give the Committee the information as to what per centage have been ultimately rejected?—Colonel Prosser, I should imagine.

1996. He has no authority as to ultimate rejections?—No, none at all.

1997. Would you think it advisable that there should be a different examination for commissions in time of peace, to what there is in time of war?—No, certainly not.

1998. Are you aware whether any promotions have been frequently delayed for the want of competency in the examiner, and the person submitted to a regimental examination?—I do not know whether they have ever been delayed; but I have

Major-Gen. *G. A. Wetherall.*

8 May 1855.

I have known instances where junior officers have been promoted who passed the examination, and passed over the heads of those who failed.

1999. Has that frequently occurred?—No; I think I have known only two or three instances since I have been in office.

2000. That matter would not come officially before you?—No; all such things rest alone with the Military Secretary's department.

2001. Viscount *Monck.*] How high amongst the ranks of the army would you consider it advisable to carry this system of examination, when a man is promoted from one rank to another?—Only to his company.

2002. Would you think it well to have an extension of the senior branch at Sandhurst, to enable a larger number of officers of the army to study there?—Certainly.

2003. Would you think it desirable that, after a man had passed the preliminary examination which you suggest, in general information, for his commission, he should be enabled to go for a year or two to the senior department at Sandhurst before he was put to regimental duties, supposing there was such an extension as would admit of it?—He may acquire the knowledge there, as well as of the garrison instructors.

2004. Do not you think that he would be more likely to acquire it better there?—I think he would; but so much depends upon disposition.

2005. On the whole, you think it would be a desirable plan if it could be adopted?—Yes.

2006. Do you think that every man could go there consistently with the maintenance of regimental discipline?—Certainly not.

2007. Are not the junior ensigns of very little use for the first year or so of their service, as far as regimental discipline is concerned?—No; we generally expect them to take their share of duty after three months.

2008. Do you think that regimental discipline could be maintained advantageously in a regiment, supposing the whole of the ensigns were away from the regiment?—It would entail so much more trouble upon the other subalterns.

2009. Do you think that it could be done?—I think that it could be done.

2010. Do you not think that one subaltern to a company could perform the regimental duties, supposing it were considered desirable that the ensign of each company should be at Sandhurst learning the theoretical part of his profession?—He could. You cannot carry on the duty of a regiment without one subaltern being present.

2011. Mr. *M. Milnes.*] Are you aware whether any practical disadvantages have arisen from the subalterns from Sandhurst being so much more familiar with their duty, and knowing their business better than the civilians who have joined the army; has that produced invidious comparisons?—No, certainly not. It is the fashion of the old-fashioned officers to consider that they know too much, and they would much rather be generals than ensigns.

Rev. *George Edward Cole*, M. A., called in; and Examined.

Rev. *G. E. Cole*, M. A.

2012. *Chairman.*] WHAT situation do you hold in the Royal Military College?—I am Master of Latin and History.

2013. How long have you been so?—Rather more than nine years.

2014. Is it your duty to examine the students upon their entrance?—Yes.

2015. Do you examine also at their final examination for their commission?—Latterly, since the present superintendent of studies has been appointed, I have conducted the examination in Latin; that is to say, the lieutenant-governor or the governor selects the passages, and I put the questions upon them, I do not select the passages myself, but I put the questions. Till within this twelvemonth Colonel Prosser has always done that himself, when he was superintendent of studies, and I was only present.

2016. Do you examine at the entrance to the senior department?—Yes.

2017. When they pass their final examination do you examine?—No, I have nothing further to do with the senior department, than to examine in Latin any who wish to be examined in that language on their entrance.

2018. There is no examination when they leave the college?—Not in Latin.

2019. In what is the examination in the junior department when they first come?—

come?—They are examined in Cæsar's Commentaries, the first seven books of the Gallic War. There is also dictation, and they are examined in geography; that is to say, the chief towns of the counties of England and Wales, Scotland and Ireland, and some of the chief rivers and lakes. I do not think there is anything more than that, in which I examine.

2020. Do you examine also for the general commissions?—Yes, in Latin and English.

2021. Is the examination upon entrance in Latin; very much in grammar?—It is very slight indeed. If they can translate a few lines of Cæsar's Commentaries and parse them, we consider that sufficient. If they can tell the different moods and tenses and declensions, and so on, that is enough.

2022. What are they examined in upon their final examination?—They are examined in three books of Livy, taken out of the Third Decade, comprising the Second Punic War, and three books of the Æneid; but with respect to the word "final," it does not mean when they get their commissions, because there is a system of steps. A candidate can be examined in Latin the first half year he is there, and if he passes that examination, he does not study Latin any more all the while he is at the college.

2023. Is there any examination in Latin if he takes it up when he is examined for his commission?—Yes, this is considered for his commission; it is done in this way: there are six subjects, and he can be examined at the end of any half year in any one of them.

2024. Supposing a student has passed a step, that is sufficient, and there is no further examination in Latin?—There is neither examination nor study after that.

2025. It is entirely dropped?—Yes.

2026. Do you consider that a good system?—No, but it is only my duty to carry out my orders. I do not think it so good as having a final examination. I think that a final examination would be better.

2027. Do you know whether boys, after they have passed their step, entirely drop the study of Latin?—They do, at the college, decidedly, because they would attend me if they did study it, and they never do attend me; they go off to other studies.

2028. What is the examination in Latin for the senior department?—I generally let a candidate choose any author that he likes. I ask him whether he knows one author better than another; he takes a piece of Livy, or Cæsar, or Horace, or Virgil.

2029. Is that examination severer than the examination upon entrance into the college?—No, I think not; it is about the same. Gentlemen very often forget their Latin after they leave school.

2030. Mr. *Hardinge.*] Is it necessary that an officer should pass in Latin?—No, and it is very rarely the case; perhaps I do not examine two in a twelvemonth; they mostly take up French, and one or two perhaps, German. Upon the last examination I think I examined two in Latin.

2031. *Chairman.*] You examine in geography also, do you not?—Yes.

2032. What is the examination in geography for the junior department?—They are examined on the chief towns of the counties of the United Kingdom, and perhaps some of the lakes and rivers and mountains; but they go through a course of geography afterwards: they pass a short course of geography; it does not reckon as anything for their commission, further than that they must do it before they can get to other steps; it would be useful on that ground.

2033. Do they pass an examination at the end of that course?—Yes, I examine them for that; the junior master teaches it, and I examine in it; sometimes I examine them *vivâ voce*, and sometimes on paper.

2034. To what extent does that examination go?—I ask them the chief towns of the United Kingdom, and of Europe, Asia, Africa, and America, and generally take them through the course; they must know the rivers and mountains of each country, and the military stations of Great Britain.

2035. Do you examine them out of the book from which they learn?—Yes.

2036. Do you ascertain whether they know their book, or is it a general examination; are all the questions which you put, questions of which the answers are found in the book?—Yes.

Rev. *G. E. Cole*, M. A.

8 May 1855.

2037. You would not put any questions beyond the book?—No.

2038. Is there any examination in geography of officers who came into the senior department?—Yes, they are examined in geography, but I do not examine them; they are examined also in history, arithmetic and algebra, and fortification.

2039. Mr. *M. Milnes.*] Do you examine the candidates for commissions in the army?—I do.

2040. In Latin and in English?—Yes.

2041. Do you examine them all in Latin?—I examine all who are examined in Latin. Every candidate is not examined in Latin; he has his choice of Latin, French, or German.

2042. What are the proportions of the civilians who come up for examination in French, Latin, or German?—I think the majority are examined in Latin, rather more than in French, and not many in German. In the Latin examination a candidate is sometimes examined both in Latin and French; he has an easier examination in each then; a great number do that rather than take the more difficult examination in either.

2043. What is the form of examination in Latin?—If a student takes the higher examination, I give him a piece of Livy to translate; I take any part, from the 21st to the 25th book inclusive. I give him some eight or ten lines; and if he does them to my satisfaction, I ask him some questions in parsing, and I do not trouble him any more; if he does not do them to my satisfaction, I give him questions on paper; and should he fail then, the paper is sent up to the Horse Guards as a specimen of his work.

2044. Is he aware that he is to be examined in Livy?—Yes, it is stated so in the printed paper.

2045. Mr. *Hardinge.*] Is that the case now?—Yes, it is mentioned in one of the printed papers. There used to be two papers issued, but I think now I scarcely see any but the one containing the word "Livy." Still candidates are examined in Virgil. In that case they have an easy examination in French, and do not do Livy at all. Livy is not compulsory.

2046. Mr. *M. Milnes.*] Is Livy the only prose work which is used?—No, there is Cæsar; they may take Cæsar if they like.

2047. Are they examined either in Cæsar or Virgil and French, or in Livy without French?—Yes.

2048. What are the written questions to which you subject a candidate when you are not satisfied with his oral examination?—I have here a copy, which I can deliver in to the Committee.

[*The same was delivered in, and is as follows:*]

Livy, xxiii. 16.

Translate from the beginning of chapter to "imminentibus daret." "Hac comitate Marcelli ferocis juvenis animus adeo est mollitus ut nemo inde sociorum rem Romanam fortius ac fidelius juverit. Quum Hannibal ad portas esset (Nolam enim rursus a Nuceria moverat castra) plebesque Nolana de integro ad defectionem spectaret Marcellus sub adventum hostium intra muros se recepit; non castris metuens, sed ne prodendæ urbis occasionem nimis multis in eam imminentibus daret."

Livy, xxiii. 16.

1. What part of speech is "rursus"?
2. Give the declension and gender of "comitas," "animus," "socius," "res."
3. Give the perfect and supine of "moveo," "specto," "recipio," "do."
4. Give the mood and tense of "mollitus est," "juverit," "moverat," "spectaret."
5. Write out the singular number of "ferox."
6. What part of speech is "fortius," and what degree of comparison is it?
7. What case is "hac comitate," and why?
8. What case is "castris," in "non metuens castris"?

Cæsar de Bell. Gall., iii. 1.

1. Give the declension and gender of "legio," "pars," "equitatus."
2. Give the perfect and supine of "mitto," "pertineo," "colloco."
3. Give the mood and tense of "misit," "consuerant," "patefieri," "volebant."
4. Give the genitive case of "iter."
5. What part of the verb is "mittendi"?
6. By what is "legionem" governed?
7. What case is "iter"?
8. What is the comparative degree of "magnus"?

Cæsar de Bell. Gall., iii. 1.

Translate from beginning of chapter to "causâ collocaret." "Quum in Italiam proficis ceretur Cæsar Servium Galbam cum legione duodecimâ, et parte equitatûs in Nantuates, Veragros Sedunosque misit, qui ab finibus Allobrogum, et lacu Lemano, et flumine Rhodano, ad summas Alpes pertinent. Causa mittendi fuit, quod iter per Alpes quo magno cum periculo magnisque cum portoriis, mercatores ire consuerant, patefieri volebant. Huic permisit, si opus esse arbitraretur, uti in eis locis legionem, hiemandi causâ, collocaret."

Æneid, iii.

Translate from line 120–127, inclusive.

"Fama volat, pulsum regnis cessisse paternis
Idomenea ducem, desertaque litora Cretæ,
Hoste vacare domos, sedesque astare relictas.
Linquimus Ortygiæ portus, pelagoque volamus;
Bacchatamque jugis Naxon, viridemque Donysam,
Olearon, niveamque Paron, sparsasque per æquor
Cycladas, et crebris legimus freta consita terris."

Æneid, iii. 120–127, inclusive.

1. How does a relative agree with its antecedent?
2. What mood is "cessisse," and why?
3. What case is "creta," and why?
4. Give the declension and gender of "fama," "dux," "litus," "portus," "æquor."
5. Give the genitive case of "fama," "dux," "litus," "portus," "æquor."
6. Give the perfect and supine of "cedo," "linquo," "spargo."
7. Give the mood and tense of "linquebat," "liquerim," "linquet," "linqueret," "linquat."

2049. Sir *G. Tyler.*] Are those papers the papers which young gentlemen have passed in already?—No; but I went to the office yesterday, and got some which had been prepared for the examination which is going on to-day. They are not selected; they are of the same character as those which we habitually give.

2050. Mr. *Hardinge.*] Do the young candidates often fail in Latin on the examination for commissions?—The average is about one in nine or ten; not more.

2051. Sir *G. Tyler.*] Do you find that those who come for examination direct from the public schools are perfect masters of Latin?—Yes, they are the best candidates that I have. I do not as a rule ask them where they come from; if a candidate passes an examination much better than usual, I generally ask him where he comes from, and I find that they generally come from the public schools.

2052. Mr. *M. Milnes.*] You think that there is nothing in the present Latin examination for commissions which requires anything more than an ordinary gentleman's education to pass?—Decidedly not.

2053. Do you hear complaints of the examination?—I have heard complaints generally about the examination.

2054. Have you heard any complaints from the students themselves; is there any impression that it is a hard thing to be obliged to pass an examination in Latin?—No, I think not; they may pass without knowing any Latin whatever.

2055. Do you know whether, in the French examination, it is required that they

Rev. *G. E. Cole.*

8 May 1855.

they should be able to speak the language?—No. A few pass a lower examination in Latin; they are generally examined also in Vertot's Revolutions of Sweden. They translate, perhaps, half a page of that book, and questions are asked in parsing; and if they do that, that is considered sufficient; but if they are not examined in Latin at all, they are expected to translate from English into French, on paper, and from French into English.

2056. Do you also examine in English?—Yes; I read some five or six lines of an English book, and the candidate writes it down, and if he makes no mistakes in it I consider that he can spell; if he does not do that satisfactorily, I give him a second and a third piece, and point out the mistakes, and give him an opportunity of correcting them; and if he does not correct them I think that is a fair proof that he does not know how to spell.

2057. Do you find that many fail in that?—No; the average is, I think, about 1 in 41; I have examined 2,729, and there have been 66 failures in dictation, which is not a great number. The average failure in Latin is about 1 in 9 or 10. I have examined more than 2,000 candidates in Latin, and nearly 3,000 in English.

2058. Sir *G. Tyler.*] Do they write from dictation?—They do.

2059. Colonel *North.*] Do not some of them produce marvellous spelling?—Yes, very. I have a specimen here, which I wrote down. One is, "inconvenience," spelt with an "a"; another is "inhabitants," with two "b's"; "barbarism" is spelt "sum"; "generally" is spelt with one "l"; "diminish" with an "e" for an "i" after the "d"; "interrupt" with an "i" instead of an "e," and one "r" only; "applications" with one "p," and so on.

2060. You give him a chance to make it good?—Yes, I give him three pieces, that it may not be said that one piece was accidental; and I even mark the mistakes by underlining them, and give him an opportunity of correcting them.

2061. Mr. *Hardinge.*] Do you think it would be advisable that there should be certain specified books in Latin in which the boys should be examined?—I think so; I think it is more for the convenience of general candidates, decidedly.

2062. Would it not facilitate the system of cramming for the examination?—No, I think not; it is not possible to have any examination without a certain degree of cramming.

2063. Suppose a boy had not read Livy, why should not you allow him to pass in some other Latin prose author?—Those are simply my instructions, which I carry out. I do not see any objection to the course proposed in the question at all.

2064. *Chairman.*] If a boy were to say, "I never read Livy, but I have read other books," and you found him weak in Livy, would you put any other Latin book before him, and try him?—If he requested it, I would. There are generally four authors in the room: Horace, Virgil, Cæsar, and Livy; but Cæsar and Virgil are considered to be easier than Livy.

2065. Mr. *Hardinge.*] Do you give them an easy passage in Livy?—Yes; and if I selected a passage which was at all cramped, or had any unusual words, I should tell the candidate those words.

2066. Mr. *M. Milnes.*] Is it your object in this examination to test the scholarship of the candidate, or to see whether he knows as much of the language as an ordinary boy would learn in receiving a gentleman's education?—To see whether he knows as much of the language as an ordinary boy would learn in receiving a gentleman's education. We do get some very good scholars indeed from the public schools occasionally, and graduates at the University. I find that, generally speaking, the candidates from the public schools are in the Remove, or Upper Fifth, or some such class as that; but not having been in a public school, I do not understand the arrangement of the classes.

2067. Mr. *Hardinge.*] A boy from a public school would, in all probability, be able to construe and parse any of those passages?—Yes, easily; without any trouble. It very rarely happens that a candidate from a public school fails. If he does fail, it is probable that he did not do anything at the public school.

2068. Can you generally tell whether a boy has been to any of those establishments where they are crammed for the examination?—No; I make it a point not to ask where they come from. The only case in which I ask is, where I am struck with the examination, as being much better than usual. Accidentally, it may happen that I know where an individual candidate comes from.

2069. Lord

2069. Lord *Lovaine.*] Are the candidates who come from the public schools inferior in regard to spelling to the others?—I think not; I cannot charge my memory with it.

2070. *Chairman.*] Do you examine in the whole of Livy; do you choose a passage out of any part of Livy?—No; only Books 21 to 25, inclusive.

2071. How could a boy cram five books of Livy?—I do not think he could do it.

2072. If he worked through with a crammer the five books of Livy, he would be a tolerable scholar?—Yes; he might cram the three books of The Æneid, because there are literal translations, by hundreds, of that. I think it possible that he might cram that up; but Livy is too heavy a work to be crammed up.

2073. Sir *G. Tyler.*] Would you suggest any improvement in the course which you now go through in the examination of those young men?—No; I think, so far as the Latin examination is concerned, it is very reasonable; I do not think it is at all more difficult than might reasonably be expected of a young man at the age at which they come up; I think that any young man who professes to know Latin at all, ought to be able to pass it.

2074. Not confining yourself to Latin, is there any other portion of the examination which you think might be improved?—I am hardly competent to say, because we are each so much engaged in our own branch, that I have hardly had time to listen to the other examinations.

2075. With regard to the public examination, do you think any improvement might be made in your own branch?—No, I think not; I do not know that I could suggest any improvement in it, unless it was wished to make it more difficult, and one might suggest Latin composition.

2076. You do not think it too difficult now?—No; I believe in the printed instructions for the higher examination, Virgil is put down as well as Livy; but if a candidate does the Livy well, I do not usually examine him in Virgil.

2077. *Chairman.*] You do not give them any English composition at all?—No, that forms no part of our instructions.

2078. Do you teach English?—No, no English is taught at the college; it is one of the things that I think should be taught. There is no instruction in English whatever at the college; the cadets are supposed to know their mother tongue when they come to the college; but there is great room for improvement in that respect, decidedly; I think, so far as regards my branch of instruction in the college, it is a very great desideratum.

2079. Mr. *Hardinge.*] Is your examination in Livy for the direct examinations *vivâ voce*?—Yes, they are first of all *vivâ voce*, and if a candidate does that well, he passes; but if he does not do it properly, he has to do it on paper.

2080. Colonel *North.*] What part of the education at Sandhurst could be discontinued, so as to make room for the teaching of English?—I do not think any portion need be discontinued; it could be taught in our branch if we had a little assistance; if we had another officer in our branch we could, I have no doubt, give instruction in English very well.

2081. Mr. *Hardinge.*] Before a cadet leaves your class, is he not required to translate a passage of Latin on paper as well as *vivâ voce*?—No.

2082. Would it not be desirable that he should be required to do so?—It would be a greater guarantee that he knew his work.

2083. It would be a guarantee that he was familiar with the English language?—Yes.

2084. Do not you find that when a cadet fails in translating *vivâ voce*, he fails also in translating on paper?—We never examine them on paper at the college at the public examination.

2085. Would it not be desirable that you should do so?—I think it would be an improvement.

2086. In your college examinations, if a boy fails in *vivâ voce*, you give him a passage to translate on paper?—No.

2087. Do you think it would be desirable, before a boy leaves your class, that he should be able to translate a passage on paper?—It would be a greater test of his accuracy.

2088. Colonel *North.*] In the case of a gentleman who goes up for his examination for a commission in the army, not belonging to Sandhurst, they only give him two chances, do they?—Only two; I think I have known candidates come up a third time. I have known one or two instances, I think, but I am not pre-

Rev. *G. E. Cole.*

8 May 1855.

pared to speak positively on this point. I simply take the candidates as they come; my information or instructions come through the lieutenant-governor, I have no means of knowing except by chancing to recollect the names.

2089. Sir *G. Tyler.*] When once they have passed the examination by you, you have nothing more to do with them the second or the third time?—No.

2090. Colonel *North.*] They are only examined in the points in which they fail?—Yes, if they only failed in geography they would not be sent back. The points in which they fail come before the Board, and if the Board think that they are not important points, they report that notwithstanding the points in which they have failed, they think them to have the education of gentlemen.

Mr. *John Godwin,* called in; and Examined.

Mr. *J. Godwin.*

2091. *Chairman.*] WERE you educated at the senior department at Sandhurst?—Yes.

2092. How long were you there?—I think from June 1827 to June 1829.

2093. Since that time you have been resident in Belgium, have you not?—Yes; I was there from 1847 to 1854.

2094. Have you had the means of becoming acquainted with the system of military education pursued in Belgium?—During my residence in Belgium I almost exclusively employed myself in military studies. I had access to all the military libraries, and also was very intimate with several officers of the staff.

2095. Could you give the Committee any information with regard to the education and acquirements necessary for entering the Belgium army?—The officers of the Belgium army are almost all privates originally, or else they have become cadets at a military school, and having gone through a particular course of study, somewhere about equal to our Sandhurst course, but I think better, they get their commissions.

2096. What time do they enter those military schools?—Before 18. I think from 14 to 18; and a young gentleman enlisting as a private soldier may enter a year after he enlists, provided he passes a very strict examination, without doing so at his own expense.

2097. How long do they usually stay at the college?—Two, three, and four years.

2098. Is an examination necessary upon their entrance into the college?—For a private soldier a very strict examination is required; several young gentlemen of good families enlist, in the first instance, and having been well prepared, pass an examination after having been one year a private soldier or non-commissioned officer, and then they are educated entirely at the expense of the nation.

2099. Is it necessary that they should enter to become soldiers at first?—No.

2100. Do those who do not enter through the army have to submit to an examination upon entering the college?—No, they pay.

2101. They are not examined?—No, they are not.

2102. Can you inform the Committee what is the course of study at the college?—Military history, fortification, military drawing, surveying, and mathematics, and of course French and German.

2103. To what extent does the education in fortification go?—It is somewhere about equal to Straith's Fortification; but I think it is a better book, written by an officer of the Belgian staff, who was himself a professor of fortification at the college, Major Laurillard Follod.

2104. To what extent do they go in mathematics?—The differential calculus, trigonometry, and geometry; and then into the analytical branches of mathematics, nearly the same as we do at the senior department at Sandhurst.

2105. Do the students of those colleges go into the engineers and the artillery?—No, there is only one college for all the branches; the superior cadets go into the engineers, the artillery, and the cavalry.

2106. Those who are the most promising boys are selected for the artillery and the engineers?—Yes.

2107. Mr. *Hardinge.*] Are you acquainted with the system at Addiscombe?—No.

2108. You probably are aware that they carry out the same principle at Addiscombe?—I believe the system of education at Addiscombe is something similar to that practised in the Belgian army.

2109. At Addiscombe those who pass the best examination are drafted at once to the artillery and the engineers, and the others go to the infantry?—Yes, I am aware of that.

2110. *Chairman.*] Have you been present at any of the examinations of the students in Belgium?—Yes, I have.

2111. Should you say that those examinations are strict and effective examinations?—Most strict and most effective, very much more so than any of our examinations.

2112. Do you speak of the examinations of the senior department, or of the junior department?—I have been at both examinations; I think that the junior department examinations are conducted on a plan somewhat similar to those at Brussels, but with this exception, that our junior department cadets are generally well prepared by the professors before they come up, and the professors know on what points to examine them, but the cadets do not know. At Brussels the examination is conducted by persons who are not professors; they are general officers, and they ask any question they like.

2113. It is entirely conducted by the Board?—By a Board.

2114. And that Board is independent of the college?—Entirely independent of the college.

2115. Mr. *Hardinge.*] When a Belgian officer passes this examination at the college, he at once gets his commission as a commissioned officer?—Yes, immediately after.

2116. And those that enter the ranks serve a certain period in the ranks, and then pass a severe examination; and they also get their commissions?—Not on passing that severe examination; they only enter the college then. I know one person, who is now a very distinguished young officer in the Belgian army; and though he had received a very high education, and was also assisted by great protection, he failed in the examination. He obtained his commission without getting it through the college.

2117. Sir *G. Tyler.*] Are all officers who enter the Belgian army obliged to go through this college?—Not all.

2118. It is only confined to a few?—If a young man of good family and education, and talent, enlists in the army, he may pass this examination without its costing him anything, or he may enter the college by paying something, in the same manner as at the junior department at Sandhurst.

2119. Are there any positions in the army to which those officers are appointed in consequence of the examination?—They simply enter as second lieutenants.

2120. They are not all placed upon the staff?—The best and most distinguished cadets are generally chosen for the staff; and after having passed the ordinary examination for the army, they are then put through a most strict and rigid course in preparing for the Etat Major, which is a separate corps.

2121. Mr. *Hardinge.*] Do they draft the best men from the college for the Etat Major, and then draft the next best for the artillery?—Yes, and the engineers next; but officers of the engineers and the artillery who have passed, generally choose after to remain at the college, and go through a very severe and trying course of study for the Etat Major; then they have to serve six years before they can be appointed to that corps; they must serve two years in the cavalry, two years in the infantry, and two years in the artillery.

2122. How is the promotion in that corps carried out?—It is very good.

2123. Is it upon the same system as the promotion amongst the engineers?—No; I do not think it is on the principle of seniority.

2124. On what principle does it proceed?—I think on the principle of merit; I know one very young officer who, from being a lieutenant, in three or four years became a major.

2125. How is merit tested in time of peace?—That I can hardly tell the Committee; I do not know sufficient of their War Department to answer that question. This young officer was on the staff of the Minister of War.

2126. Has that system caused any dissatisfaction?—No, I do not think it has.

2127. Is there not some difficulty, in time of peace, in testing merit?—They have very large camps at exercise; and this officer was employed at the time of the French Revolution in 1848 to go down and report upon the frontiers and fortifications between France and Belgium. Very shortly afterwards he was appointed to Mons, the most strongly fortified place in Belgium; and there he

Mr. *J. Godwin.*

8 May 1855.

distinguished himself so much, that he was appointed to the rank of major afterwards by the King.

2128. Colonel *North.*] That education seems to be thoroughly practical, as well as theoretical?—Yes, thoroughly so.

2129. Mr. *Hardinge.*] When an officer leaves this college, and becomes a second lieutenant, how does he rise to the higher grades in the army?—By seniority, unless in particular cases, where the King chooses to give him a brevet and advance him.

2130. So that, in fact, he is placed on a par, after qualifying himself at this college, with a man who has risen from the ranks?—Yes; with this difference, that the man rising from the ranks is promoted, after a number of years, and rises from his particular merit, and his particular attention to and knowledge of the branch to which he belongs.

2131. Viscount *Monck.*] Is there any difference, in the subsequent promotion, between the men who have passed the examination and those who have risen from the ranks?—None; because in every case in which a man rises from the ranks he must show talent before he is advanced. I was once at the camp at Beverloo; I think it was 1848; and I there observed that the non-commissioned officers and intelligent serjeants, before they are advanced, nearly all know how to draw; they all know something of fortification, and those men are obliged to report. Even the officers, the captains, and the lieutenants are sent out into the country, and they have to send in drawings of the country.

2132. Mr. *Hardinge.*] Does not it cause some dissatisfaction that a man who has taken these honours at the college, when he gets his commission, is in the same position as a man who has risen from the ranks?—Not at all; I believe that soldiers in the Belgian army prefer a man who has enlisted as a private soldier.

2133. *Chairman.*] Do you mean that they are in the same rank of life as our private soldiers, or is it not the habit of many persons of a much higher rank to enter the army in Belgium?—Yes, I know a young baron who is a private in the Belgian army; he is living in the barracks with persons of the lowest rank and grade.

2134. When you speak of private soldiers becoming officers, are many of those soldiers of the class of which our private soldiers are composed?—Yes; the *garde civique* of Belgium is an old friend of mine, and he has told me that he served in the Peninsula, in the 26th regiment of French infantry, from the battle of Rolissé to the battle of Salamanca, and that he did not know how to write till the battle of Salamanca.

2135. Sir *G. Tyler.*] You stated that they are promoted by gradation; do they select officers for command independently of their position as to their standing?—I think so. The late Minister of War was an instance of that; he was 40 years old before he entered the army.

2136. So that the gradation is so far, that they stand upon the list?—Gradation is the rule, but promotion is the exception.

2137. So that a person who shows more talent in the profession than another, although he is below him, or inferior to him, is promoted over his head?—Yes.

2138. So that it does not go entirely by gradation?—No; I know an instance of that. The officer who is the chief of the staff now at Ghent was, when I first went to Belgium, the librarian of an institution there; and he is now a major on the staff, having been advanced over the heads of several old captains.

2139. Mr. *Hardinge.*] Do you consider that it is a right principle to proceed upon, that you should take the best men for the staff, in preference to their going to the artillery and the engineers?—Certainly, I think there can be no doubt about it; the artillery and the engineers are merely branches, whereas the staff is the directing head of the whole.

2140. The duties in the Adjutant-general's Department are not purely scientific?—In the Belgian army they have no Adjutant-general's Department, or Quartermaster-general's Department. I am a very humble man, but I have a most decided ojection to the arrangement of our staff at home, and always have had; and what I have seen in Belgium has convinced me of the correctness of my opinion.

2141. *Chairman.*] With your experience of the practice in Belgium, are there any suggestions which you could make to the Committee for the improvement of the education at the senior department at Sandhurst?—When I left the senior department

department myself, I happened to be thrown into communication with the commander of the depôt at Chatham, and though I thought I had a good military education, the only thing that I really found was of use to me was my military drawing. At the department under General Pasley, I had an opportunity of applying the little theory that I had learnt at Sandhurst; and I had also access to the military library there, which enlarged my views much more than anything I had learnt at Sandhurst, and induced me to inquire more into my profession.

2142. Do you think that there could be any addition made to the course at Sandhurst which would improve it?—My idea is, that the course at Sandhurst is entirely defective in the most important branches for the education of military officers for the staff.

2143. Will you have the goodness to state the defects which you believe to exist?—First of all, we have no professor in anything military there.

2144. Viscount *Monck*.] What do you mean by that?—I mean, for instance, the application of the theory of the knowledge of ground. In the time of General Jarry, which was much before my time, the practice was different. I believe he educated most of the officers of the Duke of Wellington's staff, in the Peninsula. Sir George Murray, Sir George Scovell, Lord Hardinge, Sir Richard Jackson, Sir Charles Napier, were all under him at the senior department of that day. The officers went through a course of surveying and military drawing. The old general, who was an old officer of the army of Frederick the Great, took them out upon the ground, and gave them lectures on the placing of troops and the occupation of ground, and the forming of encampments, and on several branches of the art of war, of which we knew nothing in my time in the senior department absolutely, except merely the simplest theory of field fortification.

2145. *Chairman*.] You think that a deficiency in the education at the senior department?—Yes, a very great deficiency. There is a very great difference in the Belgian army. Not only are the officers upon the staff taught to do that, but even the regimental officers, such as a lieutenant-colonel or a major, are ordered to march in such a direction with their regiment, and they are obliged to send in a plan and a report of the country, as to its capabilities, and the facilities of defending it from the enemy, and also attacking.

2146. That is with regard to the senior department?—Yes.

2147. You think that a deficiency?—Yes, a very great deficiency.

2148. Is there any other point to which you wish to direct the attention of the Committee?—I think there is a great defect with regard to the study of military history; that is very much studied by the officers of the staff at Belgium. Of course I do not speak of the circumscribed course of the military history study at the junior department. But when the officers of the staff commence, there is a field course of military history which is very different from general history. It is the history of particular campaigns; for instance, the campaigns of Turenne on the Rhine in 1602 and 1605. An officer of rank lectures upon them. We might take the Duke of Wellington's campaign, from the 16th of June to the 22d of July in 1812. Various points of history are taken up, and they are taught to consider the nature of the occupation of the ground, which never would have entered into their heads without its being pointed out to them.

2149. There was no instruction of that kind given, when you were at the Military College?—None.

2150. Have you any other suggestion to make to the Committee upon this point?—I think I have stated the most material points.

2151. What have you to say with regard to military drawing?—I think that our drawing is quite equal to that of the Belgian army, or any other army.

2152. Is it as practical?—Yes, perhaps more so.

2153. Can you say the same with regard to surveying?—Yes; my remark applies both to drawing and surveying.

2154. You think that the deficiencies which you have stated are the two main points?—Yes.

2155. When you were at Sandhurst, there was nobody to give that instruction?—We were sent out under a very old professor, who taught us military drawing; but we learnt nothing of the higher branches of the art of war.

2156. Who is at the head of the military college in Belgium?—General

Mr. *J. Godwin.*

8 May 1855.

2157. Does he entirely superintend the college, or is there any Board?—He superintends the college entirely. There is a Board of general officers, who examine, and the professors are all scientific military men, who have been in the staff themselves, or the artillery, or the engineers.

2158. Viscount *Monck.*] Is there any inconvenience found in the line in Belgium, from their drafting off all the intelligence of the army to the staff, the engineers, and the artillery?—No, because there are very few officers who wish to undergo the tremendous ordeal for the staff, of the six years' study which I have mentioned; none but those who have an ardent love for the service will go through it.

2159. Is there any subsequent examination for promotion, besides the examination which they pass at the college?—No.

2160. *Chairman.*] How many years are they at the college?—Four years. Those who are intended for the staff are sent to the three branches of the army for two years at each; they are attached to the regiments.

2161. They are studying for six years?—Yes, they are studying for six years.

2162. If they enter at 18, they do not join any regiment till they are 24?—They mostly enter before 18; the cadets who go into the college enter from about 14 to 16, but they can enter at 18; I think even as late as 19.

2163. Colonel *North.*] Have they an orphan class there?—There is no class for orphans, unless they can pass the examination on entering.

2164. Is that institution supported by the country?—It is supported by the country, but there are young gentlemen who choose to enter the college without having been soldiers; those men are never thought as well of by the army and the officers of the line and the artillery, as the persons who have entered the ranks and passed a year in the cavalry and the artillery, and then gone through the college.

2165. Viscount *Monck.*] There is one class who enter without ever being in the army, who pay; the other class enter as privates in the army, and then submit to an examination, and pay nothing?—Yes; but there are regimental schools to all the regiments, which are very superior to our regimental schools, for the children of non-commissioned officers, and even the children of officers.

2166. *Chairman.*] Is there any mode of instruction for the officers when they are with their regiments?—Yes. There also is a great difference between our army and the Belgian army. They have one of the most magnificent libraries in Europe, and any officer of the army may have from that library any convenient number of books that he wishes. I think, in fact, they are compelled to study. I have myself had sometimes 30 or 40 volumes from that library.

2167. Where is that library?—In the centre of Brussels.

2168. Has an officer who is not quartered at Brussels the power of taking the books?—Yes, in any part of Belgium.

2169. Is there any instruction given in the way of lectures, or in any other mode, after they have joined their regiments?—The officers of the Belgian army are of a different class from ours, because they continue at all times to study amongst themselves, as their promotion depends upon it; and when our young gentlemen here are talking of breaking looking-glasses and furniture, the Belgian officers are talking over military matters, and studying them.

2170. Viscount *Monck.*] The army in Belgium is treated more as a profession?—Yes; a man goes into it to remain in it.

2171. Mr. *Hardinge.*] Is the examination which an officer passes to be appointed to the Etat Major made much more severe than that which an officer passes at Sandhurst to get a first class certificate?—Yes, because of the military history course; that course is very severe indeed; and as Napoleon and Frederick the Great, and other great men, have said that military history is the school for a soldier who has not had experience, so it is made of much more importance on the Continent than in our army.

2172. Colonel *North.*] Have you been on the staff of our army?—Yes, I was on the staff in Africa.

2113. Did not you publish a series of plans?—Yes, I published a series of plans of the Peninsular War.

2174. Mr. *Hardinge.*] Do they require a larger amount of mathematics at the Belgian colleges than is required at Sandhurst?—No, not so great.

2175. Viscount

2175. Viscount *Monck.*] That is with regard to the theoretical knowledge of mathematics; but they do require a greater amount of the application of mathematics, do they not?—They do require a greater knowledge of the application of mathematics; but they do not require the higher branches, such as physical astronomy. At the time that I was examined, Lord Hardinge remarked to our examiner, Mr. Narrien, that he thought the course much too high in mathematics; and he said that it was much higher than was practised in his time under General Jarry. In General Jarry's time the course of mathematics was very simple indeed; but the course of military science was very much more than it is now; it was infinitely more, because there is none now.

2176. *Chairman.*] With regard to the application of science, are they acquainted with the steam-engine; do they carry their instruction further than mere military subjects?—The officers of the staff are acquainted with almost every branch of scientific information.

2177. Was that the case when you were at the senior department?—No. Besides that, in Belgium they are thoroughly acquainted with the organization of troops; an officer of the staff must know something of the Commissariat Department, he must be a good infantry officer, he must be a good cavalry officer, and he must be a good artillery officer. He must have a practical knowledge of the three arms of the service before he can become an officer of the staff.

2178. Sir *G. Tyler.*] At what age do they become officers of the staff?—I think generally about 23 or 24, but then the officers of the staff are aides-de-camp, as grey headed as the generals themselves; a staff appointment is a permanent appointment. When a man gets into the Etat Major he remains there for life.

2179. *Chairman.*] Is it necessary that they should be taken from the Etat Major for the personal staff?—No general can appoint his aide-de-camp. The Minister of War cannot appoint an aide-de-camp. They are entirely appointed from the corps d'Etat Major; I do not know whether a general has the selection of his aid-de-camp.

2180. Viscount *Monck.*] Has the degree of proficiency that those officers attain in the knowledge of regimental matters after they are appointed to those three different arms of the service, anything to do with their future promotion?—They have to pass a separate examination after that.

2181. So that they must be good regimental officers?—Yes; I look upon the Belgian staff as being the highest educated military men that I have met with anywhere.

2182. Colonel *North.*] What provision is made for instruction in military matters in the different regiments of the Belgian army?—There is a captain instructor and schoolmaster for each regiment.

2183. *Chairman.*] Is that for the instruction of the common men?—Yes; and also for the officers. The instructor for the non-commissioned officers is a very intelligent person; he is a serjeant generally, but sometimes he is an officer. The officers are always discussing military matters. Each regiment is about three or four months in the year in the camp, and then every officer has an opportunity of distinguishing himself when he is sent out to make a reconnoissance; and if he does not distinguish himself in that way, his brother officers soon turn their backs upon him. They have also the immense facilities of reading, which I was mentioning, which our officers have not. In the British army it is a great favour to be allowed even to see the books or maps or plans in the Quartermaster-general's Department.

Martis, 15° *die Maii*, 1855.

MEMBERS PRESENT.

Sir Francis Baring.	Colonel North.
Sir George Tyler.	Lord Lovaine.
Mr. Monckton Milnes.	Mr. Rich.
Colonel Dunne.	Mr. Hardinge.
Viscount Monck.	

THE RIGHT HON. SIR FRANCIS BARING, BART., IN THE CHAIR.

General Sir *Howard Douglas*, Bart., G. C. B., called in; and Examined.

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

2184. *Chairman.*] YOU were at one time officially connected with the Royal Military College at Sandhurst; what office did you hold?—I was for a long time Superintendent of the senior department; afterwards, on the death of General Jarry, I was commandant of the senior department; and at a late period I was appointed inspector-general of instruction, when I was ordered home from the Peninsula at the end of 1812 to undertake those duties.

2185. That gave you the means of information, both with regard to the junior department, as well as the senior department?—I was in command of the senior department only; but, as commandant of the senior department, I was a member of the Collegiate Board, and that gave me a great deal to do in all general matters. I may mention that the origin of my connexion with the college was, that in those days there was very little general military science in the army, and I was transplanted from the Royal Artillery, in which I had served for 10 years, to undertake the duties of superintendent of the senior department at the college, and to assist General Jarry, a most remarkable man, in carrying on the instruction of the field classes.

2186. The number of cadets in the junior department was at one time reduced; when did that reduction take place?—The first reduction took place soon after 1816; the junior department of the college was at its greatest strength in 1816; there were then 361 cadets; one company was reduced in 1824 and another in 1829.

2187. What were the reasons for that reduction?—Those alterations originated in, and were necessitated by, the report of the Finance Committee of 1817; the Finance Committee of that day first objected that the number of cadets was far too great for a state of peace, and recommended that they should be reduced; and if a reduction of one or two companies had been made, leaving those that might remain in a perfect state of organization as a strictly special military school, so as to form a nucleus which might have been extended at any time, according to the wants of the country, that alteration in the establishment might not have been liable to much objection; but the Finance Committee went further than that; they suggested and recommended that the strict military character of the junior department should be relaxed; that the course of education should be so regulated as to be adapted to any professional pursuit, and that even if the military education should in that way be relaxed, it would still be sufficient to qualify officers to serve in the armies of this country, to lead, as the Report of the Committee states, the soldiers of a free State.

2188. Did you make any objection to that arrangement?—I did. I represented strongly to the Commissioners of the Royal Military College my apprehension that those alterations would very much deprive the Royal Military College of its character as an excellent, special, military school, and convert it, in some respects, into a very indifferent classical school, or general seminary. I stated that no alteration of that description could be made without abandoning the original purposes and endowments of the institution; that it was instituted for the purpose of providing a strictly military education for young men, who were to become officers; that it should be at the same time a charitable institution, in which gratuitous education should be given to a considerable number, I think 30 in each company, of the orphans of officers who had

been

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

been killed or died in the service; and that education should be provided at a moderate rate for the sons of officers serving, or on half-pay, without having taken the difference; and that those subscriptions should be rateable with their fathers' several ranks. It was the original provision of the college that the son of a captain on full pay should be received at 20 *l.*; on half-pay, without having taken the difference, at 10 *l.*, and so upwards. The son of a field officer on full pay was admitted at 30 *l.*; on half pay, 15 *l.*; a colonel a little higher, and a limited number of the sons of private gentlemen were to be admitted, each paying, I think, about 92 *l.* or 94 *l.* a year, which was reckoned to be the exact cost of an individual placed at the institution. I have here a copy of the representation which I made to the Commissioners.

2189. Will you have the goodness to deliver that in to the Committee?—[*The same was delivered in.*]—The alterations in the senior department did not take place till 1820, when, in consequence of the space voided by the reduction of the junior department, the senior department was transferred to Sandhurst. *Vide* Appendix.

2190. You state that originally the course of study at the school was of a more military character than it is at present; will you be good enough to state what that course of study was?—Arithmetic, and the more elementary parts of algebra, a course of geometry, plane trigonometry and mensuration; fortification, castrametation, and military drawing.

2191. What is the present course of education?—The present course of education is, arithmetic, and the more elementary parts of algebra; Euclid's Geometry, (introduced in 1816 and 1817); plane trigonometry and mensuration; in some cases practical mechanics, in others the differential and integral calculus; fortification, in its principles and practice; castrametation; military surveying, with instruments and by the eye; military drawing; the Latin, French and German languages; the art of riding, military exercises, and evolutions.

2192. In what do you consider the present course of education is deficient for military purposes?—The observation I made with respect to the military character of the institution being very much interfered with by altering the military courses, I apply particularly to the examination of cadets for commissions without purchase.

2193. Will you state in what way the examination for commissions has become less of a military character?—Soon after the recommendation of the Finance Committee, to which I have just adverted, the following is the regulation which was made of the subjects upon which candidates applying for commissions without purchase should be examined:—arithmetic, and the elements of algebra; Euclid's first six books; permanent and field fortification, omitting the attack and defence, and military surveying; with any three of the eight following subjects:—solid geometry; plane trigonometry and mensuration; [plane trigonometry and mensuration are, in my opinion, essential portions of military education; and no cadet should get a commission without purchase who had not passed an examination in those branches]; the differential and integral calculus; practical mechanics; attack and defence of fortresses; history, ancient and modern; Latin, French, and German; so that a cadet might come forward for examination in those three fixed branches, and might make choice of any three of the other six; he might make choice of Latin, of French, and of German; and that, with proficiency in the other branches, would entitle him, according to this regulation, to a commission. This is not a sufficient amount of mathematics and fortification to qualify a cadet to obtain a commission. The attack and defence of permanent fortification, and the processes of the attack and defence of field works, should be added to the fixed branch of fortification; and as surveying cannot be taught without a knowledge of plane trigonometry and the mensuration of heights and distances, so these should be added to the fixed branches of study in which cadets should be examined; nor can the practical construction of field works be taught without a knowledge of the mensuration of surfaces and solids. These branches are not only indispensable for direct application to practical military uses, as above, but they are really the foundations of all sound mathematical knowledge; and thus, as I have said, the examination has less of a military character than formerly.

2194. In the original examination, before this change was introduced, was that particular study a necessary part of the examination?—It was. I was out of the country for many years after that time; at all events, the course, which was at first of a permanent character, is now variable, which, in my opinion, it

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

should not be; and least of all should it be so at the choice of the person who is to be examined.

2195. You consider French a great advantage to a military education?—Certainly, it is very necessary.

2196. You would consider history also an advantage?—A very great advantage; but I do not think that it should be one of the points upon which a cadet should be examined as entitling him to a commission. I think that general history taught in such an establishment as that, can scarcely be the rationale or the substance of history: it resolves itself rather into the chronology of history than the substance; and I think that the course of history should specially be military history.

2197. How many cadets have passed the examination since the establishment of the school?—Four thousand six hundred and forty-eight.

2198. How many of those obtained a commission without purchase?—Two thousand and fifty.

2199. Of all the cadets who have been educated at the college, how many have obtained commissions without purchase?—Six hundred and eighty-seven, after examination, since 1832, exclusive; 85 by private interest. The number of cadets who obtained commissions by, and without purchase, previously to 1832, is estimated at 1,363; but this is not stated as certain.

2200. How many cadets, not having passed the final examination, have left the college without obtaining recommendations for commissions?—Two thousand five hundred and thirteen, of whom 780 have since entered the service: 685 cadets left for the Royal Military Academy: (the Committee are aware that a great number of the cadets of the Royal Military Academy were at that time educated at Sandhurst); and 128 left for the East India College at Addiscombe, when that establishment was formed.

2201. How many who have been educated at the college, have left the college, and followed other pursuits?—Nine hundred and twenty-two.

2202. Can you give the Committee information as to the operations performed on the ground by the cadets, with respect to practical field fortification, the attack and defence of field works, and with respect to military surveying?—Tracing on the ground with ropes the outlines of the principal works constructed to protect outposts, to form têtes de pont, to protect artillery in position, star and bastion forts; the cadets set up poles, connected by strings, to show the profiles of works at the angles or elsewhere. With a party of sappers and miners, they execute portions of such works, form batteries, trenches by sap, execute shafts and galleries of mines, and form the different kinds of military bridges; they make gabions and fascines, mount and dismount artillery, defend the ditches of works by grenades, destroy stockades, &c. by blasting. With respect to military surveying, they use the theodolite to determine the principal points on the ground; they lay down roads, and the minor points by the compass, and sketch the features of the ground by the eye.

2203. In your opinion, is that sufficient for the military education of young men in the position of military students?—Certainly.

2204. To what extent is the subject of elementary mechanics studied by the cadets?—The theory of forces, the properties of mechanical powers, the position of the centre of gravity in bodies.

2205. What facilities are afforded at the college for teaching the practice of sapping, mining, and pontooning?—A party of sappers and miners is stationed there, and they act instructively to the young men, under the direction of the professors.

2206. Are those branches of military science sufficiently taught at the college?—I think they are as well taught as they can be; the principles are well taught; there is this material difference with respect to bridges, that they are laid in perfectly still water, and therefore the difficulties of laying them in a rapid current are not experienced; but the sapping and mining are well taught.

2207. Are any general lectures given at the college on natural philosophy?—Lectures on chemistry and other parts of natural philosophy were delivered in 1820 and 1821; lectures on natural philosophy, without chemistry, were given for some years subsequently, but they have long been discontinued.

2208. Would it be an advantage if such lectures were still given?—I think very great indeed.

2209. How many cadets is the college at Sandhurst capable of receiving?—I believe

General Sir *H. Douglas*, Bart., G.C.B.

15 May 1855.

I believe now it is capable of receiving about 270. Some of the space originally intended for the cadets is now taken up by model rooms, and class rooms, and for other purposes connected with education; but the college did once receive 361 cadets.

2210. Was that at the time that the senior department was consolidated with the college, or before they were joined?—It was before the consolidation of the senior and junior departments.

2211. Is the military staff of the college, as it exists at present, sufficient to superintend the discipline of an increased number of cadets?—It is not.

2212. To what extent do you consider it deficient?—I consider it insufficient in the educational staff, and in the military staff. They require more professors, and more officers; they would require probably a first increase to three companies; you could not well have more than 100 cadets to a company, and that would necessitate another captain; if there was an increase of two companies, there would be two captains required; and there would be a considerable number of professors and masters required.

2213. As far as regards the discipline, an increase of one captain, you think, would be sufficient for one company?—Yes.

2214. You are of opinion that it would require an addition to the educational staff; will you state what you think the increase ought to be for one company?—If the two companies were increased to three, it would require one-half more; and if the three companies were increased to four, it would require nearly double, although that might be avoided by giving the professors more to do; but I believe they are all thoroughly well worked.

2215. Do the cadets enter the college with sufficient previous knowledge to enable them to go through the course of study with advantage during the term that is allowed them at the college?—I do not think they do. I think that the examination in arithmetic should be higher. I think they should understand the whole of arithmetic, otherwise there would not be time, within a convenient period, to go through the course of study which I really consider to be the minimum to qualify a young man for military service. That minimum should, I conceive, comprehend all arithmetic, including of course vulgar and decimal fractions, and the extraction of roots; geometry, to the extent of the four first books, and the sixth book, of Euclid, a tract on proportion being substituted for the fifth book, as in the edition which I believe was compiled at Sandhurst in 1816. These are the qualifications that cadets are obliged to prove to be entitled to a commission; plane trigonometry and the mensuration of surfaces and solids are omitted. Now, in order that the military course may be complete, as all courses should be, nothing should be taught, the principles of which have not been previously acquired. I would introduce logarithms; I would add, after the geometrical course, the properties of the geometrical and arithmetical progressions, for it is the comparative properties of those progressions that constitute the principle of logarithms, and explain why the addition of logarithms answers to the multiplication of whole numbers, subtraction to division, and so on: logarithms are absolutely indispensable to the solution of plane triangles: therefore logarithms and plane trigonometry should be taught. I think that all the demonstrations used in this strictly military course should be geometrical, and not analytical. I think at a military school, where young men are trained for practical purposes to deliver themselves distinctly of what they mean to say, and what they have to do, that the examination of *viva voce* geometrical demonstration is far preferable to examinations by paper: and with respect to this course, and any other, I should say that every problem susceptible of geometrical demonstration should be so demonstrated, instead of using the analytical process. In the qualifications to which I adverted for the examination of cadets for commissions, permanent and field fortification and mensuration, are indispensable. The practical construction of permanent fortification is the work of the engineer; but an officer of the line may be called upon at any time to construct field works. These are made upon the principle, that every portion of the excavation of a ditch should furnish earth sufficient for the corresponding parapet. Now, to calculate what quantity of earth is required to make a parapet, the areas of the profile must first be determined; and the rectangles, trapezoids, and triangles, of which it consists, computed. It requires, therefore, a knowledge of the measurement of planes to be able to make this calculation; then this plane is to be formed into a solid;

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

a solid; that requires a knowledge of solid geometry; therefore I should say that mensuration of planes and solids is indispensable to a strictly military course for a young man who is a candidate for a commission.

2216. What amount of knowledge would you require upon the entrance of a student to the college to the junior department?—I should say that he should be very far advanced in arithmetic. I would require the whole, if that could at present be had, and the elements of algebra. The cadet ought to be examined in Latin; though I do not think that should be one of the absolute points without which a commission should not be bestowed. I think that any classical knowledge brought to the college by a cadet should be kept up; he should not be permitted to forget it, and every facility should be afforded to him to keep it up.

2217. Would you have any examination in French?—Yes, in Latin, French and history.

2218. You think at present that that knowledge which is required upon the entrance of a student into the junior department is too small?—Yes.

2219. Do you think it an advantage to the college that there should be a governor such as there now is, an officer of high standing at the college, or do you think that the college would proceed better if the lieutenant-governor were at the head of the college without the governor?—I think it is a great position; it is an extensive command. There is a very great deal to do, and I think it requires an officer of very high character and ability, and I should say also of science.

2220. You think that that is a great advantage to the college?—Yes, I think it is; I think it requires a man of high standing and character; and he ought to be a man of science to a certain extent. The present governor, Sir George Scovell, is an eminent officer; he was educated at the senior department during what I call one of its best times, and obtained a certificate.

2221. Colonel *North*.] With regard to the professors of the junior department, do you think that the salaries of those professors are of such an amount as to induce men of first-rate capacity to undertake the duties there; they are not allowed to take pupils; they are obliged to give up the whole of their time to the duties of their office?—I am not very sure what the salary is now; I am afraid that it has been very much reduced; it requires a liberal salary; you have very eminent professors there; by length of service they have attained to high rates of salary; but I think that the rates on commencing are scarcely sufficient to attract qualifications of the highest order.

2222. Mr. *Rich*.] You place the course of instruction high as regards cadets; but as regards the knowledge requisite for a highly educated professor, it does not range very high?—No, certainly not; but here I would discriminate between that knowledge which I consider to be absolutely indispensable to form a good military education for a young man to enable him to enter on the service with advantage, and that higher degree of education that may be given after he has proved that qualification, and has obtained the reward, namely, a commission. If he is permitted to remain afterwards at the college, no restraint should be laid upon him; he should be encouraged to prosecute science to its most transcendental parts if he could, and the professors are well able to afford him that facility. And more than that, to any cadet who does devote himself, willingly and of his own accord, to prosecute mathematical science beyond what he had been taught as necessary to a commission, there should be given, as in the senior department are now, a second certificate of high qualification, and a third certificate certifying the highest. No one can know too much. No restraint should be laid upon any man who is at a seat of learning, but every encouragement given to him to acquire all the knowledge he can. I only say that that knowledge is not strictly necessary to form an officer for the line; but if it is given to a cadet, and that cadet enters the army, the service is enriched in his person by that higher knowledge and science which he carries into it; and it can scarcely be possible, if he lives, that the country should not reap the benefit of the high education which he has voluntarily acquired, beyond what was strictly necessary as the elements of a military education.

2223. Without questioning the excellence of the system of carrying on education for an officer in the senior department, taking the cadets to range from 13

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to 14 years of age, up to 16 and 17, do you think that the payment to some professors of 445 *l.* a year, with a house, and to others ranging from that down to 220 *l.* a year, is sufficient to induce a highly respectable class of persons, capable of conveying the instruction necessary to the junior department, to come forward for that purpose?—I do not think that the salaries are sufficiently high, the lowest particularly.

2224. You have attached great importance to the original charitable foundation of the college, and you have stated that you think it necessary that the original foundation should be regarded?—I attach very great importance to it.

2225. You think it a misfortune that it has been departed from?—A very great misfortune.

2226. Originally the expense was borne by the State?—Originally the expense was borne by the State. In the year 1815 there were four companies of cadets, containing 103 each. The original endowment of the college was that there should be 30 orphans of officers, free of expense; 20 sons of officers on service at 40 *l.* a year, 30 sons of noblemen and gentlemen at 94 *l.* 10 *s.*, and the cadets of the East India Company were at the rate of 20 *l.* a year; a second company of 103 gentlemen cadets was formed in 1803; a third was formed in 1804. The three companies were increased to 103 each in 1806, and a fourth company was added, consisting of 103, in 1812. The greatest number of cadets ever present at the college was in 1816. There were 25 cadets at 10 *l.*, 45 at 20 *l.*, 49 at 30 *l.*, three at 40 *l.*, four at 60 *l.*; and the third establishment, consisting of private gentlemen's sons, numbering 107, at 94 *l.*

2227. That was the time when prices were at the highest?—That was the time when prices were at the highest.

2228. From your knowledge of the college, should you say that that 94 *l.* at that time was remunerative; that those sons of gentlemen who paid 94 *l.* a year cost the public nothing?—I consider that they cost the public nothing.

2229. That being so during the war, when prices of all kinds and salaries were at their highest point, should you conceive it likely that the cost of a cadet who was the son of a private gentleman would be as much now, making allowance for the great depreciation of prices?—No, I do not think it would. I should like to say, that in 1824 the number of cadets had diminished from 216 to 190. At that time the orphan class had been entirely abolished. There were 20 cadets of the first class, at 20 *l.* each. The subscriptions to the second class, which in 1816 were respectively 20 *l.*, 30 *l.*, 40 *l.*, and 60 *l.*, were raised to 30 *l.*, 40 *l.*, 70 *l.*, and 80 *l.*; and the subscriptions of the third class were raised to 125 *l.* each, there being 75 of those cadets. Thus it appears that in 1815 the total charge of the junior department to the Military College was 34,197 *l.* In 1816 the charge was diminished to 33,819 *l.*; in 1817 to 27,664 *l.*; all these diminutions compelling the Commissioners to make some corresponding alterations in the endowment of the college, that it might gradually, as the persistence of Parliament determined it should, become ultimately self-sustaining.

2230. Colonel *North.*] Do you know the proportion that the country paid when the expense was 34,000 *l.*?—It was all paid by the country at that time. In 1817 it was 27,764 *l.* In 1818 it was 24,774 *l.* In 1819 the Parliamentary grant was 23,028 *l.* In 1820 it was 21,471 *l.* 16 *s.* 9 *d.* In 1821 it was 18,738 *l.* In 1822 it was 15,687 *l.* In 1823 it was 13,760 *l.* In 1824 it was 13,294 *l.* In 1825 it was 18,833 *l.* In 1826 it was 13,135 *l.* In 1827 it was 13,229 *l.* In 1828 it was 12,917 *l.* In 1829 it was 10,029 *l.* In 1830 it was 7,656 *l.* In 1831 it was 5,627 *l.* In 1832, up to March 1833, it was 2,638 *l.*, when the Parliamentary votes entirely ceased, and the college became self-sustaining. In proportion, as these reductions went on, it became necessary to diminish more and more, first, the orphan establishment, and then the number of cadets who did not pay anything like the cost of their education; afterwards to increase vastly the number of the sons of private gentlemen, and to augment their rates of subscription to a great deal more than the education of their sons individually cost. So that, in order to make the college self-sustaining, the chief expense of the establishment is contributed by the sons of private gentlemen, who pay about one-half more than their education actually costs, and the excess is carried to the aid of the college funds to educate those who cannot afford to pay the cost of their education. No one can doubt that, as long as it continues to be a military establishment, the original endowment ought to have been respected, and, instead of calling upon the sons of private gentlemen to pay more than

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

the cost of their education, and to apply that excess to those who could not afford to pay the expense of their education, the Government, and not the third establishment, should have provided the necessary funds, and continued to charge the noblemen and gentlemen, whose sons form the third class, with the real cost of their education, and nothing more.

2231. You attach great importance to a sound military education being given to an officer?—Very great.

2232. Do you think that the fact of charging, in round numbers, double the cost for the education of a gentleman's son tends to exclude from the benefits of a military education the sons of gentlemen of smaller means?—Certainly, by so much.

2233. In fact, it throws the military education into the hands of the very wealthy class, and not into the class of orphans and the sons of officers of subordinate stations, who receive an education partly gratuitously from the surplus funds furnished by the sons of the wealthy gentlemen?—Applying that with respect to the College, it is clear that the effect of the pecuniary economy was to introduce the sons of a great number of persons who could afford to pay that high price for their education, and to exclude by so much those who could not so well afford it, but who had been admitted under the former plan. In consequence of this, the college has really less hold upon the consideration of the country, in the state in which it is, than it would have had if we had kept it firm on the foundation on which it was originally placed; that is, as a place of education for the sons of officers at moderate rates, for orphans gratuitously, and for the sons of private gentlemen at cost rates, instead of discontinuing the reception of youths who have the greatest possible claim on the service, and on the country.

2234. You consider it an injustice to charge any person, rich or poor, double the cost of the education of his son?—Certainly.

2235. An argument has been raised in justification of this system, that the sons of those persons who pay more than the cost of their education, benefit by having the chance of receiving a commission gratuitously; do you think that chance a sufficient justification for the extra charge?—I do not see that that is any justification at all for having admitted that class in such numbers as to exclude those who ought to have been provided for, and were so originally.

2236. Supposing there were any force in that objection, do you think it would remove the other objection, of throwing a great impediment in the way of the sons of poorer professional gentlemen getting their education at the college, by making them pay a much higher rate for their education than their fathers could afford in justice to their other children?—It certainly would throw that impediment in the way of the sons of poorer officers getting commissions.

2237. Colonel *North*.] You stated that you were friendly to there being an orphan class. Considering that an orphan is now obliged to pay 40 *l*. a year, and that in many instances, such as in the case of an ensign, the mother receives but 30 *l*., in the case of a lieutenant 40 *l*., and in the case of a captain 50 *l*., the class of orphans under the existing regulations is practically excluded?—Yes.

2238. Within the last four or five years the country has given allowance to those non-commissioned officers who have been promoted from the ranks to the service in the infantry of 100 *l*., and in the cavalry of 150 *l*. If there was an orphan class established, and upon the boys obtaining commissions from the College the same advance was made to them as in the case just mentioned, do you think that that would be a very great boon?—I do think that it would be a very great boon, and a very worthy and excellent measure. In the French schools, at the Ecole Spéciale St. Cyr, and the Ecole Préparatoire, they have an allowance made of a *bourse* for the *trousseau*, in particular cases of destitution, on the young men leaving the school to join their regiments; and there are some cases in which they actually give a small annuity of a few hundred francs a year to young men who are very destitute, for a few years while they are serving in a subordinate class. That is not carried far, at present, on account of the expense that it would entail; but they acknowledge the principle.

2239. With regard to the first class, which embraces the subaltern and the captain, it is now restricted to 25. Do you not think it would be a great boon to the officers in the lower grades of the army if that class were considerably increased?—Certainly.

2240. Do you think that in the examinations for those commissions it would be

be better if the professors who were to examine were those, for instance, from the academy at Woolwich to examine the Sandhurst cadets, and that the professors at Sandhurst should examine the Woolwich cadets?—It would have the appearance of advantage; when the senior department was at Farnham, or at Wickham, and the junior department was at Marlow or Sandhurst, the examinations of the junior department were always carried on in all branches by the professors of the senior department, and the principal professors and masters of the junior department made the examinations of the students of the senior department.

2241. Viscount *Monck.*] Would you contemplate, under any circumstances, that all the officers intended for the army should pass through the college at Sandhurst?—I am not prepared to say that; there would not be room.

2242. Mr. *Rich.*] Though not requiring that every officer should pass through the military college previously to his getting his commission, you would exact a severe preliminary examination before he attained that commission?—I was the person who recommended that measure. When I called the attention of the House of Commons to the state of military learning, I stated that I thought there should be an examination, and I was prepared to go on with my plan; but the Government took it up very cordially, and, having professed a wish to take it into their own hands, I abandoned it to them. I was not consulted about the matter; but I never could have contemplated anything so absurd as that ridiculously trivial examination which the officers entering the army undergo now.

2243. Mr. *Hardinge.*] You stated that the sons of noblemen and gentlemen had gradually excluded the sons of officers, and also orphans; is not the third class limited in number?—Yes; but it was much less numerous originally than it is now; what I mean to say is, that the number of the third class is, for financial reasons, consequent on the cessation of the Parliamentary Grant, increased to 114, out of 170.

2244. To what extent would you propose that the orphan class should be increased?—To the number that it was originally, certainly.

2245. That is on the assumption that the college shall receive a Government grant?—Certainly.

2246. You could not do it without?—No. I consider that it is absolutely necessary to restore the college to its original foundation.

2247. Do you see any objection to introducing into the ranks of the army a larger number of poorer officers who have nothing to live upon except their pay?—I do not admit that the difficulty of living in the army should be conceded as sufficient to exclude those destitute young men from entering into the service; for if you were to continue the exclusion against the gratuitous class, or against the class of officers' sons, on the ground that they have not means sufficient to support them in the service, how would it be with respect to those gallant men, those private soldiers who are working their way to commissions, and to whom commissions are pledged, and who will be much more destitute of all private resources than a young gentleman who, though an orphan, may have rich friends who will assist him? If a soldier should be so destitute, you must give him a *trousseau* to fit him out. This is a very serious case on account of their destitution. Those classes ought not to be rejected. Those parties should not be excluded from the military service of their country; but how is it to be managed? The great evil, the bane of the service, is the expense, the extravagance I may call it, of military messes. How to cut them down, may be difficult; but I do think that there is no higher or more important duty imposed upon us all, whatever our places may be, than to cut down the luxury and extravagance of messes. When I first entered the service, the officers' mess was very much what the serjeants' mess is now. Subalterns could live on their pay, and did in every regiment live on their pay; but in this long peace things are very much altered; the rates of subscription are high; the whole style of a mess-table is magnificent; the *cuisine* even is *recherché*; the wines expensive, and it is utterly impossible, I think, for any young man, excepting one who is endowed with a very rare and almost scarcely-to-be-expected degree of self-denial, to live at the mess without some resource besides his pay. I do not pretend to say how those expenses can be cut down; I know that in all the commands I have held I have known a great many most serious and distressing cases, really the ruin of young men, from that very cause; and I did all I could to abate it, and it is not impossible. It is not easy to cut down the

General Sir *H. Douglas*, Bart., G.C.B.

15 May 1855.

expense; but as you cannot reject those men, and cannot give them resources to meet this style of living, it is your duty to bring down the expenses to their resources.

2248. It has been stated that the history of those orphan cadets has been rather a lamentable one; that they have got into debt, and so forth; are you aware of that?—I have heard of many such cases; I think it should excite our pity and commiseration; I think it may arise from their having been imperfectly educated for want of means; I have known a great many turn out well, who were a real credit to the service, and a real comfort to their families; I think that the cases alluded to are no reason why we should refuse to those young men the benefits of the institution, but rather a reason why we should grant them.

2249. Mr. *M. Milnes.*] Would you not think it a great misfortune for any service, that its social condition was such as to make it impossible for any but rich men to live in it?—Certainly.

2250. You think, therefore, that an extension of the system of giving good military education and gratuitous commissions to the sons of men who have fallen in the service of their country, or who have served their country dutifully, is one that would tend not only to the advantage of those young men themselves, but to the general advantage of the service?—Certainly.

2251. Mr. *Rich.*] Do you think that the encouraging of the sons of gentlemen and professional gentlemen of smaller means to enter the army would tend to reduce the tone of extravagance which you have just named takes place in the messes in consequence of the preponderance of men of large fortunes?—I think it would to a considerable extent.

2252. Do you think that the tendency of charging so high as 125 *l.* a year for the Sandhurst education is to exclude the sons of those gentlemen from the military college?—I think every increase in the numbers of the cadets who pay 125 *l.* a year (in consequence of the financial necessity which compels the college to make that arrangement in order to get funds) does exclude them.

2253. It is *pro tanto* an exclusion of the poorer candidates?—It is.

2254. It has been stated in evidence that certain returns are required from the colonels with regard to the messes?—Yes.

2255. Are those returns strictly complied with?—I am not prepared to say that.

2256. Should you say that in regiments in which the requirements specified in those returns were complied with, it would be possible for the messes to become so extravagant as you have stated several messes are?—I think it would check it very much. Before I signed that article in my confidential reports, I did sometimes find occasion to interfere, and would not sign it until I had applied a remedy of an economical nature, which might enable me safely to answer this question.

2257. In support of those regulations, do you consider that it would be an advantage to encourage the introduction to the army of men of moderate means, who should form a connecting link between those gallant men who rise from the ranks and those men of higher and larger fortunes who now and always will enter the army?—I think the sons of those men to whom you first alluded should not be discouraged and rejected from the service on that account, but to the extent originally contemplated by the provisions of the college, they should be educated on the gratuitous or paid establishment accordingly.

2258. Do you think, that reverting to the scale laid down in the original foundation of the college, would tend not only to the useful professional education of the great body of officers, but also to the improvement of the social and moral state of the regiments?—The restoration of the college as originally instituted would, upon the whole, be most proper and professionally advantageous.

2259. Mr. *M. Milnes.*] Would there be any fear, supposing the admission of the poorer men into the army was facilitated by these and other means, of the army losing the gentlemanly tone which perhaps at present distinguishes it?—I do not think there would be the least fear of that; I think the college in its original state had not that effect; it provided for the poorer, but it did not exclude the wealthier classes; and the college, when it existed in that purely military form, in which it was first established, had no such effect as that.

2260. Do you think that the introduction of more men of very moderate means into the army would have either the effect of reducing the gentlemanly tone of the service, or of excluding from the army so many of the higher classes

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as now enter into it?— No, I do not think it would. I think, independently of the college, they would work their way into the service; and I should be the last to lay any difficulty in the way of the entrance into the service of the aristocracy, or the wealthy part of the country. I think it is a very great advantage to the army that they are introduced, and a very great advantage to the country in every respect.

2261. Would it be possible, if a number of those persons were introduced, to keep up the present system of purchase and the different steps of commissions? —That is an intricate question. I am not prepared to give any opinion upon it.

2262. Lord *Lovaine*.] Do you, in your experience, find that officers of the line are generally wealthy men?—No, certainly not; there are a great many wealthy men.

2263. Is not the extravagance as great in the Indian army as in the English army?—I am not prepared to answer that question. I have never served in India.

2264. Sir *G. Tyler*.] Would not it be possible for the commanding officer of a regiment so to regulate the expenditure of the mess as to bring it within the means of the officers of the regiment generally?—I think it would be possible, certainly.

2265. Could it be done by his own act, or would it be requisite that a general order should exist for the purpose?—It must be done by the mess committee; it could not be done consistently with the present style of living. A very large proportion of the officers who dine at messes, never saw such dinners on their fathers' tables; it is the expense of the mess, the expense of the subscriptions, the expense of the wines, the expense of the *cuisine*; the whole thing is extravagantly expensive with reference to the resources of a subaltern who has very little or nothing but his pay.

2266. What check could you propose to prevent that?—The only check now is, calling upon the inspecting generals to answer specifically the question, whether or not the mess is economically conducted, so as to admit of a man who has no private resources, living on his pay. If the general officer have any reason to believe that this is not the case, it is his duty to call the attention of the officer commanding the regiment to that fact, and let him know that he must abate the expense or style of the mess; he should state that, if this be not done, he, the general officer, will be under the necessity of stating, in his confidential report, that the expenses of the mess are beyond what an officer who has little or nothing besides his pay can afford. I have done so, successfully, on several occasions.

2267. The expenses being now so great in regiments, particularly that of their mess, it is impossible for an officer to live on his pay under these circumstances? —I really think it is, in the majority of regiments, impossible for a subaltern to live without an allowance of 100*l.* a year.

2268. If that is the case, it is equally impossible for men from the ranks, or serjeants, when raised to the grade of officers, to bear the expense?—I think it is impossible. I am speaking of regiments in fixed quarters in time of peace, not on service.

2269. Colonel *North*.] Would you suggest any number for the orphan class, or would you leave it unsettled?—I would restore it to what it was.

2270. You would have the whole thing entirely free of expense?—The whole of that class, yes.

2271. With regard to the class paying 125*l.* a year. In order that the country should not be called upon to pay anything to the college, they have increased the number of that class; do you think that that ties down and interferes rather with the authorities of the college in dealing with these boys in the discipline, and so on; that perhaps they think twice in sending away a boy who pays 125*l.* a year, and they would not think so if he was like the rest?— I think it is in the nature of the case, all Parliamentary grant having been withdrawn, and the college being positively sustained in its finance mainly by those contributors, that the authorities of the college would be a little tender in getting rid of cadets of the third class.

2272. Viscount *Monck*.] There is a very strong motive on the part of the college to retain them?—Yes.

2273. Mr. *Haranger*.] As you are in favour of raising the standard of examination on entrance to the college, would you recommend any alteration in the

General Sir *H. Douglas*, Bart., G.C.B.

15 May 1855.

age at which they are admitted?—No; I think they are now admitted up to 15; that was an alteration, I think, that was introduced at the time of the report of the Finance Committee. This is a general order, dated the 26th December 1817, immediately after the Finance Committee made their report, and then it was settled that the subscription of the third establishment for board, clothing, and education should be raised to 125*l.*, that the course of instruction should be extended to four years, unless when the student had previously attained the age of 18; and that the age of admission should be from 13 to 15, being an extension of a year, to allow a longer continuance at the public schools when preferred to the college.

2274. Mr. *Rich.*] Do you think any benefit would accrue from having two modes of admission; one by a less severe education for boys of a lower age, and the other by a more severe education for boys of a higher age, who might complete their course in one year?—I am not an advocate for admitting any boys after the age of 15; I think that is quite far enough, and I am not disposed to think that that distinction would be very advantageous; I think they should form one class, and that there should be the same qualification, and that it should be invariably insisted upon.

2275. Sir *G. Tyler.*] With reference to the present establishment of the college, you stated that it is absolutely necessary that there should be a governor?—When the departments were separate, the governor resided generally with the junior department, and the lieutenant-governor resided at Wycombe with the senior department; but since the college has been at Sandhurst, both the governor and the lieutenant-governor have resided at that place.

2276. The lieutenant-governor had authority over the senior department, as well as over the junior department?—Yes.

2277. With reference to the present funds of the college, it appears, with their present funds, that they can scarcely increase the establishment of the college?—They cannot increase it; the accounts of receipts and expenditure are very nearly a balance now.

2278. Presuming that the college would be increased, could you suggest any means by which the funds could be raised by any reduction of the staff of the college?—No, I do not think so. I think the staff of the college is reduced a great deal too low already; for instance, there is no military staff to the senior department. Since it was transferred to Sandhurst, all the military staff has been reduced, and the only educational staff the department has, are the professors of the junior department; there used to be a commandant, and a major to the junior department; but those appointments of the military staff have been reduced; there is at present a governor, lieutenant-governor, and superintendent of studies. Formerly there used to be a governor, lieutenant-governor, commandant to the senior department, commandant to the junior department, major of the junior department, and a captain to each company.

2279. In fact, the staff that now exists, in your opinion, is only adequate to the establishment at present at Sandhurst?—It is only adequate to the establishment at present at Sandhurst; and if that establishment were increased, it would be necessary to increase the military staff.

2280. But not the head departments?—No.

2281. *Chairman.*] With regard to the senior department, when you were at the college, what was the number of the students in the senior department?—There were 30.

2282. When was that number reduced?—In 1820, when the senior department was transferred to Sandhurst; it was reduced to 15.

2283. Did you make any representation with reference to that reduction?—I did; not in the paper which I have handed in, but in a separate paper, and several times *vivâ voce*.

2284. Will you have the goodness to state to the Committee the objections that you felt to that reduction?—I thought that it would deprive the senior department of that special, distinct and separate form as an establishment for educating officers for the general staff, and that uniting it to the junior department at Sandhurst would convert it into it a class of a school of boys; that the number, reduced from 30 to 15 students, would be very disadvantageous; that in its new position as a class of a school, it would not be so attractive to officers of certain service and rank, as in its special and distinct form, and that it would at once destroy all analogy between the senior department

ment of the Military College and L'Ecole d'Application de l'Etat Major at Paris, which I have for many years tried to establish, by regulating the studies of the senior department as a special school for the instruction of staff officers.

2285. Are you of opinion that that alteration has materially affected the senior department so far as to virtually abolish it?—I am of that opinion; it exists in the form of 15 officers permitted to study at Sandhurst, and those 15 officers are instructed, not by military officers, not even in military operations in the field, but by the professors of the college. In saying this, I trust I shall not be considered as speaking disparagingly of the professor who, for want of a military educational staff, conducts the instruction of the officers of the senior department not only in mathematics and in fortification, but, in conjunction with the professor of military surveying, in operations on the ground; expounding also the lectures of General Jarry, with adaptations of the subjects of those lectures to ground in Berkshire, Hampshire, and Surrey. The senior department is indeed indebted to Professor Narrien for its very existence, and what remains of it depends entirely upon him; he is a learned and excellent man, who has raised himself to a very high repute in science, and I am sure he will be one of the first to admit that all the military lectures and instructions in the field relating to the occupation of positions, the establishment of outposts, the marches and movements and encampments of troops, all taught by him at present in the field with great zeal and ability, should, as originally, be placed under the tuition of a military officer of science and experience.

2286. What was the programme of the studies of the senior department originally?—They were much more extensive than for the junior department, as, in my opinion, they ought to be. The senior department was established in 1799; and perhaps the Committee may consider it interesting that they should know how that establishment originated. The establishment of the senior department of the Military College in 1799 was recommended by the late General Le Marchant, an eminent and distinguished officer, who came to a most glorious death on the plains of Salamanca in 1812. General Jarry, who was the first commandant of the senior department, was a Frenchman, highly educated in France, entered the service of Prussia a short time before the commencement of the seven years' war, and was on the personal staff of Frederic the Second through the whole of that (to Prussia) glorious war. He returned to France, and became afterwards one of the generals of the French army; and in the year 1795 defected from the French army, and came to London, where he soon became very generally known as a man of eminent talent, perfectly master of the science and the practice of his profession; and from his having served so long about the person and on the staff of Frederic the Second, full of the most interesting anecdotes and instructive details connected with that war. He became acquainted with the Duke of Portland at that time, and afterwards with the late Lord William Bentinck, then a young man; and in course of time became his military mentor, giving him instructions and lectures on all branches of military science. General Le Marchant having formed an acquaintance with General Jarry in London, it occurred to him, that if General Jarry could be engaged to give lectures to a certain number of young officers who might be disposed to go and reside where the general might attend, it would be very advantageous to the service. General Jarry was so engaged. A house was taken at High Wycombe, a considerable number of the rising young officers of the day became his students, Sir George Murray, Sir Henry Bunbury, Sir Richard Bourke, General Richardson, and a great many others. General Jarry soon found that the rudiments of military science in the British army were not sufficiently known to enable all the students to profit by his instruction, and recommended that mathematical, and fortification, and other classes, should be established; and accordingly Mr. Dalby, a mathematical professor, M. St. Denis, professor of fortification, and M. Polehet, of the Polytechnic School, were engaged; and in this way the senior department was established. My connexion with the college in 1804 originated in a recommendation made by the Commander-in-chief to the Master-general of the Ordnance of the time, that I should be permitted to leave the artillery on public grounds, to be promoted to an efficient majority in the line, and become the superintendent of studies of the senior department, and to assist General Jarry) who had then become so infirm as not to be able to get on horseback) in carrying on the instruction of the field class, which I did.

General Sir *H. Douglas*, Bart., K. C. B.

15 May 1855.

2287. What was the programme of instruction at that time?—The programme of instruction at that time was vulgar and decimal fractions, duodecimals, proportion, extraction of the square and cube roots, use of logarithms, geometrical theorems, practical geometry, mensuration of plane figures, reduction of scales and plans, similar triangles applied to measured distances, plane trigonometry, mensuration of solids, use of the theodolite, algebra, with its application to geometry and mensuration, that is, in mathematics; then as to drawing, nature of plans, use of drawing instruments, delineation of figures by the eye, practice of shadows for plan drawing, practice of colouring, brush drawing, tracing plans through glass, by squares, by the pentagraph. To be copied, a plan of operations of an army, a plan of a position of an army on a large scale; a plan of a march route for a column of troops; plan of the resources of a country; a plan of winter quarters; drawings relating to General Jarry's lectures; and sketching ground by the eye.

2288. Can you state to the Committee how many of those points are omitted in the present programme of studies?—According to the present programme of study, the students enter with a knowledge of arithmetic, and of the more elementary parts of algebra. The course of instruction comprehends Euclid's Geometry (introduced in 1820) extended so as to embrace a complete geometry of solids, plane and spherical trigonometry and mensuration; projections of the sphere; algebra, extended to include the solution of equations of the third degree; practical astronomy and geodesy, analytical geometry and conic sections; in some cases elementary mechanics, the differential and integral calculus, and analytical mechanics: in fortification, its principles and practice; the principles and practice of defilading works; castrametation, perspective, general topography, military surveying with instruments and by the eye; the French and German languages; reading General Jarry's lectures on the art of war. General lectures on chemistry, and other branches of natural philosophy, were given in 1820 and 1821; lectures on natural philosophy, without chemistry, were given till 1843, but they have since been discontinued.

2289. Can you give the Committee any information as to the number of officers of the senior department who have passed the final examination, and obtained certificates for the qualification for the general staff since the formation of the department?—Three hundred and twelve, of whom 240 obtained certificates in the period from 1820 to 1854: these last obtained certificates after the senior department had been removed from Farnham.

2290. How many have obtained certificates up to the time when the three classes of certificates were introduced?—Two hundred and sixteen.

2291. When were those certificates introduced?—They were first introduced by me at the senior department in 1806. Till then there was no public examination; there were no certificates. When an officer left the college, his pretensions in mathematics were merely certified by one of the professors; he never was examined at all. In 1806, I found a great number of very capable young men there, and very good professors, and, being very often called upon to give my private opinion respecting the mathematical and other endowments of officers who were candidates for employment, I felt that I was sometimes put in a very difficult position indeed, from not being able to certify that those officers were very highly qualified; I therefore considered that at least there should be no doubt upon a matter of that kind, and that in the case of those officers being candidates for employment on the general staff, their appointment should not be dependent on the certificate of a professor, nor my private opinion, but that there should be a public examination to prove before the Commissioners of the college how far those officers were really qualified in the several branches of military education to be so employed, and that if they acquitted themselves to the satisfaction of the Board, the Board should grant them a certificate; in consequence of this, the certificates were introduced at Wycombe in 1806. The three classes of certificates were confirmed by the Governor, Sir Edward Paget, in 1836, at Sandhurst.

2292. How many officers have received certificates from that time in the three different classes of certificates?—Two hundred and sixteen.

2293. Can you state to the Committee how many officers who have received certificates of qualification for the general staff are now employed in the duties of the staff?—In 1852 there were seven; in May 1854 there were 15.

2294. Mr.

2294. Mr. *Hardinge.*] That is 15 on the general staff, including those in the Crimea?—Yes.

2295. *Chairman.*] What is the course of study in which an officer is required to pass an examination to qualify himself for a certificate in the general class?—Arithmetic, algebra, geometry of Euclid extended, plane and spherical trigonometry, mensuration, projection of the sphere, practical astronomy, and geodesy, analytical geometry, conic sections, fortification, topography, military surveying and sketching, the art of war, the French and German languages, and riding; that is for a certificate of the first or general class as it at present stands.

2296. What is the programme for a certificate of the second or intermediate class?—It is the same, with the addition of elementary statics and dynamics, hydrostatics and hydrodynamics, the differential and integral calculus, analytical mechanics, as far as is contained in the first 300 pages of Poisson's Traité de Mécanique, which is very high.

2297. What is the course of examination for a third class certificate?—The same as in the two last, with the addition of 200 pages more of Poisson's Traité, or part of the first volume of the Mécanique Céléste.

2298. Do you think that the studies in which the examinations take place are sufficient, or are you prepared to make any suggestion for the improvement of them?—I think that the course is amply sufficient, and may well compare with the course of L'Ecole Spéciale de l'Etat Major at Paris.

2299. Are there any studies enforced which are not necessary?—I think that the qualifications comprised in the first certificate, with the addition of a small course of elementary mechanics, are all that are absolutely necessary to qualify an officer of the Quartermaster-general's department to perform his very important duties. There are certainly very great accomplishments in those higher classes, but I consider that they are not absolutely necessary; for instance, the study of the Mécanique Céléste, or of Poisson's elaborate work, the Traité de Mécanique, I think is not absolutely necessary. But the study of these subjects is quite voluntary, and is pursued only by the few officers who are induced to qualify themselves for certificates of the two highest classes. A much higher degree of education and qualification are required for a staff officer than for a cadet, and, therefore, I always pushed the course of the senior department far beyond what I recommended or thought needful for a cadet. For instance, practical astronomy; it is of the greatest importance that that should be taught to a staff officer; not the whole astronomy of a fixed observatory, but merely the astronomical problems that may be performed by means of a sextant, and an artificial horizon, by which an officer in the field may take the sun's altitude, and thus at any time determine the latitude of his station, the hour of the day, or the angle of azimuth, and the variation of the compass, and so be enabled to *orient* his plans. Then spherical geometry, spherical trigonometry, and the various projections of the sphere are introduced, because, in the case of officers who are employed very largely in the topographical department, it is absolutely necessary that they should know that the theorems of plane trigonometry can only be applied to small portions of the earth's surface. The three angles of a plane triangle are always equal to two right angles; but those of a geodetical triangle, whose sides vary from 10 to 100 miles in length, exceed two right angles by a quantity which depends on the magnitude of the triangle. An officer should, therefore, be enabled to lay down the surface of ground which he has surveyed, and to know what the different constructions and principles of maps are, so as to show why and in what way a portion of the earth, which in fact is spherical, is to be laid down on a plane surface. An officer serving in foreign countries, of which there are no maps, should know all that relates to mapping, so that he may construct his own map according to that nature of projection which shall be best adapted to the extent and geographical position of the country surveyed. Therefore I introduced all that study as absolutely necessary to an accomplished staff officer.

2300. What operations are performed upon the ground by the officers of the senior department?—They sketch a tract of country by the eye alone; they execute a plan of reconnaissance through some tract of country; survey singly or in squad eight or ten square miles of ground, and in squad a tract of 15 square miles and upwards. They make, in writing, a report of the qualities of the ground, as a military position, with respect to its attack or defence. Instruction on the above

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

above subjects is given in lectures within the walls of the college, and on the ground.—[*See* "Outlines of Lectures on Tactics," &c. in the College Book on Fortification.]

2301. To what extent is the subject of elementary mechanics carried on in the senior department?—The properties of mechanical powers; the centre of gravity in bodies; equilibrium of timber roofs; equilibrium of vaults; pressure of earth; resistance of piers sustaining arches; strength of materials; strength of men and animals; laws of motion; theory of gunnery *in vacuo*, and (by the higher classes) in a resisting medium; vibration of pendulums; centres of oscillation and percussion; pressure of fluids; resistance of fluids upon bodies moving in them; buoyancy of floating bodies; manner of determining heights of mountains by the barometer.

2302. What facilities are afforded at the college for the practice of sapping, mining and pontooning for the senior department?—The same as with respect to the junior department, by means of a detachment of the sappers and miners.

2303. There are no general lectures at the college at present upon natural philosophy?—No.

2304. Do you consider that there ought to be lectures of that kind given?—Yes.

2305. Are there means used on the gound to give the officers instructions, how to place outposts, sentries and videttes, and how to dispose troops?—The officers in the senior department get their knowledge of those subjects from the lectures, illustrated by plans of grounds in the neighbourhood of the college.

2306. There is a Royal Military Academy at Woolwich; in what respect is the college at Sandhurst a special school for the general staff of the army, distinct from the Royal Military Academy at Woolwich?—The Royal Military Academy at Woolwich is a special school for the artillery, and its course of instruction is in that respect different from that which is given at Sandhurst, which is a special school for the service of the infantry and cavalry.

2307. At the time when the college at Sandhurst was created, was there any institution in the country for teaching the practical duties of the general staff?—None.

2308. When did the British army first begin to be efficient with regard to the duties of the general staff?—I think it was made highly efficient in the course of the Peninsular War, and very much so in consequence of the number of officers who were appointed at that time, after having passed their examination at High Wycombe, and obtained certificates. They were thereupon employed on the staff in the Peninsula; a great part of the quartermaster-general's staff was composed of officers who had been educated at High Wycombe.

2309. When you were connected with the college, were you in the habit of being consulted with regard to the appointments upon the staff?—I was very often asked by general officers, on their appointment to the staff, to recommend to them an officer of the senior department qualified for their personal staff, being, as they frequently stated, much pressed to employ young friends or relatives who had received no military education; and I did recommend many. With respect to those appointed to the quartermaster-general's staff, all who had obtained certificates, or who had been at the college before certificates had been established, were almost invariably appointed to the staff in the Peninsula; and, therefore, I should say that the staff of the British army during the Peninsular War, the quartermaster-general's staff in particular, was very highly distinguished.

2310. You attribute that a great deal to the college at High Wycombe?—Yes. I have here a list of the names of officers who had been at the senior department, who served on the staff in the Peninsula, and many of them are still living. Of those who were educated there before my time, I may state Sir George Murray, Sir Henry Bunbury, Sir Benjamin D'Urban, Sir Richard Bourke. During my time, Lord Aylmer, Lord Hardinge, General Sir John Wilson, General L'Estrange, Sir William Herries, General Thorne, Sir George Scovell, Sir William Gomm, Sir William Waarre, General Brotherton, Sir George Bowles, Sir James Douglas, Sir Robert Harvey, Sir James Hope, General Macgregor, Colonel Drake, Colonel Cameron, General Bainbrigge, and many others. Then White, Osborn, Patrick, Lemesures, Bradford, Collins, and many others who were killed in the Peninsula. Since the war, many officers, who afterwards distinguished themselves, studied at the senior department, and were engaged afterwards in other wars. General Wetherall, General Simpson, Sir Richard

Richard Docherty, Sir Charles Napier, Sir William Napier, Colonel Brunton, Sir Digby Mackworth, and Captain Baker, and I therefore say that the services of those men did give to the staff of the army in Spain, and elsewhere, a high and just repute.

2311. You have mentioned that you were consulted a good deal by general officers with regard to their general staff; are you of opinion that it is a great advantage that an aide-de-camp should be able to obtain the knowledge which he requires for his situation in the college at Sandhurst?—Certainly I am.

2312. Do you think that he would perform his duties as an aide-de-camp better for possessing that knowledge?—I think that an aide-de-camp selected from those young men who have passed their examination at Sandhurst, and more particularly so at the senior department as it was originally, would be very highly qualified to perform all the duties of an aide-de-camp; whereas a man not so educated would not be able to perform them.

2313. Was the formation of this establishment advocated by great commanders since 1793?—Yes, by many. Sir Ralph Abercrombie was a most zealous advocate for such a college. The Duke of York was its patron. All the most eminent officers and statesmen of the time were favourable to its institution; which, as I have said, was accomplished in 1799 and 1800, by the late General Le Marchant.

2314. How many officers studying in the senior department could you find quarters for in the college now?—Quarters have hitherto been found for 15; occasionally for one officer extra. Room could not be found for more; and some of these have always resided in the neighbourhood.

2315. Are you of opinion that it would be advantageous to remove the senior department to another place?—Decidedly so.

2316. On what ground do you think so?—To restore to it that separate form which it once had, and to separate it altogether from the junior department.

2317. Not merely for the purpose of finding accommodation for the junior department?—No, not merely on that account.

2318. Would you increase the number of students in the senior department?—I would increase it to 30, the original number.

2319. Do you think that there is sufficient educational staff at the college now to superintend the studies of a greater number of officers?—No, I do not.

2320. Do you think it would be advantageous, with a view of increasing the number of officers qualified for the general staff, that officers whose regiments are upon foreign service should not be debarred from entering the college?—I think it would be advantageous, if they could be conveniently spared.

2321. Would you increase the time allowed for officers to study at the senior department?—Perhaps I would. I think that the time allowed now, which is a year and a half, if they have been at the junior department, and two years if they have not been at the junior department, is scarcely enough. I think to acquire all that they ought to acquire, it is scarcely enough. I think it might be accomplished by young men of considerable capacity and application; but I think there should be another year of grace allowed to those who make the best use of their abilities, but who cannot complete the course in the time.

2322. Are you of opinion that a special corps, separate from regimental duties, should be established in this country, similar to that which exists in France?—I am not of that opinion; I think that the circumstances of our colonial service, and a great many other objections, might easily be stated. There is one insuperable objection which you cannot get over, which is one of regulation; that regulation which now directs that appointments to all staff situations shall be held only for five years.

2323. Do you think there should be any check upon the employment of officers on the general staff, whether personal or otherwise, as to qualification and education?—I think there should be.

2324. In what way would you propose to make that check?—I think that no officer should be employed on the general staff in preference to an officer who had been educated for the staff service in the senior department; I should almost say, that no officers should be appointed to the staff, excepting those who have been educated in the senior department; but that might have the effect of excluding, in these days, many men of talent and of experience, who, in other ways, may have obtained very considerable information and instruction, and may have

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

qualified themselves in a very high degree for that employment. I am, therefore, scarcely prepared to say that no officer should be appointed to the staff, to the exclusion of those who have not had the advantage of the education at Sandhurst, or at the senior department, nor am I disposed altogether to go so far as to refuse to a general officer the right of appointing, as his aide-de-camp, an officer who had not studied at the college; though I think it highly desirable that no officer should be appointed an aide-de-camp unless he had been so educated and so qualified. In the French service, they concede freely to all general officers the right of choosing their aides-de-camp; but they confine the choice to a class of well qualified men, namely, those who belong to the general staff corps, and who must have been educated at L'Ecole d'Application.

2325. Supposing you did not confine the appointments on the staff to officers educated at the college, would you advocate some examination to ascertain whether an officer is fit and has sufficient education before he is permitted to be so appointed, or would you leave it as it is at present, with no check whatever as to the appointment?—I think it would be a very proper thing to institute an examination; I think it would check the practice of appointing young men to staff situations who have not passed through the college.

2326. You are acquainted with the establishments for military education in other countries; do you consider that the establishments for military education in this country are on a level with those establishments in other countries?—Not altogether, either in number or in system. I have had many good opportunities of looking very closely into those establishments with a view to examine what effect peace might be likely to produce upon the efficiency of our army and the state of military education in this country, relatively with that of other countries. I have long looked with very great intensity into the state of military education on the Continent.

2327. Have you any information with which you could furnish the Committee with regard to the state of education on the Continent?—I have here an abstract which I have drawn up, containing an account of all the military institutions, I think I may say, in the world, certainly in Europe and in the United States of America; and it is quite clear that never at any period has the attention of all foreign countries been more devoted to cherish, foster, establish, and extend the state of military knowledge in every country that has an army; and I am prepared here with this statement.

2328. Will you have the goodness to deliver that in to the Committee?—[*The same was delivered in.*] *Vide* Appendix.

2329. Are you acquainted with the Corps de l'Etat Major in France?—Yes, I am.

2330. When was that organized and made a special corps?—It was organized in 1816. Soon after the peace, a great part of the army was, in fact, disbanded; part disbanded itself; and when the royal armies were reformed, a commission of very eminent officers was formed to regulate the reorganization of the army, and of the staff. I had access to all the discussions that took place at that time at Paris, and I think it might be serviceable now to produce to the Committee copies of the discussions that took place upon the question, whether or not, in reorganizing their staff, they should form it into a special corps, or leave it as it was, the officers being connected with the troops. Various discussions took place on the question of forming a separate staff corps, as to what the effect might be in discouraging the line; how the relative promotions should be regulated; how the staff should be educated; whether the staff should be recruited by drawing competent officers occasionally from the regiments, as they might be selected for their intelligence and military acquirements; or whether to establish some special school for the education of the officers of the staff. It was decided, upon the whole (not unanimously, however), that the staff should be formed into a separate corps; that it should not be kept up by indraughts of officers from the troops, to be interpolated into the several ranks of the staff, but that it should be recruited at the bottom, by *elèves* from the special school of St. Cyr and the Polytechnic School, who should then become students at L'Ecole d'Application. That the students should then be sent for two years, to do duty with a regiment of infantry; the first year to act as regimental officers, and the second year to act as aides-de-camp of the colonels, for there are three battalions in a French regiment, and the colonel acts as a general of brigade. It was further decided, that after a student shall have passed a strict examination

General Sir H. Douglas, Bart., G. C. B.

15 May 1855.

examination in the service of the infantry, he should be sent to a cavalry regiment for two years; and then to L'Ecole Spéciale at Metz, the great engineer and artillery school. Having thus acquired a competent knowledge of all the arms of the service, to become a perfectly well-qualified and accomplished staff officer, he should then be appointed permanently as a lieutenant to the staff corps.

2331. There is a special school for the staff, is there not?—There is a special school for the staff.

2332. Will you state to the Committee the course of instruction in that school?—They study at L'Ecole Spéciale de l'Etat Major, the whole art of war; tactics, special and combined; reconnoitering; castrametation; the science of projectiles; practical artillery; astronomy; geography, physical, mathematical, and political; statistics; military history, military administration, and legislation; chemistry; the steam engine, with its application to warlike purposes; the manufacture of gunpowder; the construction and use of arms; the theory and construction of bridges, and the art of the pontoneer; civil and military drawing; architecture; topography and geodesy; construction and repair of roads; the English and German languages; horsemanship, and the diseases of horses.

2333. How long do they remain at that school?—The time of study at that school is two years, but there is power to give them an act of grace in case they are well disposed. If they have failed, notwithstanding all the exertion in their power, and they have very good disposition and talents, which may be considered sufficient fairly to accomplish it if more time is allowed, they may have a third year; but it must be considered with what very high qualifications the young men enter this school. The Polytechnic School supplies a great number of the best recruits to L'Ecole d'Application. With regard to the Polytechnic School, any young man from 15 to 20 years of age is capable of entering that school. The examinations are held annually, at Paris. Any young man may come and inscribe his name on the list, presenting only certificates of good moral conduct, and of his birth, age, and the resources of his family. After the examinations at Paris, there is a Board appointed, consisting principally of members of the Institute; and they go round to every principal town and city in France where there is one of their local colleges, and there, at fixed days, they hold the examinations. Any young man between the age of 16 and 20 may present himself and inscribe his name in the list, and, presenting those certificates, he is examined. The examiners make their return in every district, and at Paris they assign to the successful candidates a certain order. On their return to Paris, they make their reports, and the candidates selected at the different arrondissements and at Paris are then brought into that school, there to secure a polytechnical education, not for any particular science, or for any special profession; but to follow a course which is made invariable whether a young man intends himself for public or a military life, or any other profession. No alteration is made on that account; they are examined at the end of the first year; at the end of the second year there is a final examination in public. If the candidates are numerous, they are divided into three or four squads, and they are examined by three or four different examiners, but in a public room; it is a very high and serious examination in all the transcendental branches of military science, and everything that relates to military affairs. When the examinations are over, the candidates are then classed in the order of merit from one to the end The aspirant, number 1, is brought up, and he is told, "You stand first on the list." There are a certain number of appointments placed at the disposal of L'Ecole Polytechnique by the different branches of the Government; there are a certain number of appointments for entrance into the staff and to L'Ecole d'Application de l'Etat Major; others for entering into the artillery, the military and civil engineers, and various other great branches of service. The commissioners announce to the most distinguished candidate, "You have the right, being first on the list, to choose which career you would prefer in all those that are now open to you." If the candidate chooses the engineers or the artillery, he is sent immediately to the special school at Metz. If he prefer the staff, he is sent immediately to the special school of the staff. Thus a choice is given to all the candidates in succession, as far as the places are open. Another source from which students come to L'Ecole d'Application de l'Etat Major is from L'Ecole Speciale St. Cyr. There the students have already attained great proficiency; they

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

they are seeking a military career, and they consider it the highest prize they can obtain, if, after passing a brilliant public examination, and being reported to the Minister of War, he thinks them worthy to become recruits for the staff. With such a prospect before the student, it ceases to be any matter of wonder that this course of instruction at L'Ecole d'Application can be accomplished in the space of two years.

2334. In point of fact, the studentships in the staff school are prizes in the other different schools?—Just so; and they are very great prizes.

2335. With reference to that point, have you any suggestions to make to the Committee with regard to the qualifications of officers who should be admitted to study in the senior department at Sandhurst?—I have bestowed a great deal of thought as to how far it would be wise and right for us to adopt anything like the French system of staff. I am not disposed to recommend our resolving our staff into a separate corps, and giving it a permanence, even if that general order with respect to staff appointments being conferred only for five years did not stand in the way. Then I have considered in what way I could best propose to carry out the analogy which I always imagined existed between the senior department as it was in its special specific form when I was connected with it, and the French system. I have considered in what way I should propose to carry out the analogy which in theory I had often attempted to establish between the two, and in what way I could make it practical; how far, in short, the senior department of the Royal Military College might be made to confer upon the British army, the advantages which have been conferred on the French army by the special staff school; and I cannot help thinking, that if the senior department were resolved into the separate condition which I venture strongly to recommend, it might be made to fulfil those purposes. At present an officer passes at the senior department of the college, and obtains perhaps a high certificate; he then has to return to his regiment, if not employed on the staff. Now, I would give him a certificate of his having passed an examination in elementary mathematics, fortification, and drawing; but I should not give him a certificate of being yet completely qualified for the services of the general staff. I should say, then, if he is an infantry soldier, and has had his service in the infantry before he came to the college, that he has a certificate of the acquirement of the elements of military science, and the qualification of being a well-accomplished infantry officer. I would then send him to a regiment of cavalry for a sufficient time, to enable him to become perfectly acquainted with all the manœuvres and general principles of that service. I should send that officer to Woolwich, to join the practical course of cadets, who, after having gone through the theory of their course of instruction at the academy, go through an extensive practical course in the arsenal, in all that relates to the service of artillery, thus keeping up the analogy which I think should subsist between our staff school (the senior department) and the French Ecole d'Application, who send their students to the artillery and engineering school at Metz. After having completed that course, and obtained a certificate, an officer may very fairly be considered as well qualified to serve on the general staff, not only by being well grounded in military science, but in a general knowledge of infantry, cavalry, and artillery. I would give him a diploma to that effect, and let him go to his regiment till wanted for employment on the staff. In France they give officers who submit to be worked in this way, a step of rank in their profession, when they have completed it. That, perhaps, there might be objections to in our service; but I take it that men educated in this way at the senior department, accomplished as they would be, and then rewarded with diplomas, would be considered supernumeraries, or, at all events, aspirants for the staff. I doubt very much whether they would not make their way into employment on the staff in spite of any influence in any other quarter, from persons who might wish to employ other men; their own knowledge and weight would be sure to effect this, and if not, the service would be greatly enriched by the high professional acquisitions which officers enjoying such opportunities would have attained.

2336. Do you think that it would be advisable to require more knowledge from those officers who are allowed to study at the senior department than is now required?—No; I do not think it would be necessary to require more than that which I have read as to the present course of study there.

2337. Lord *Lovaine*.] How would you manage the admissions into the senior department,

department, supposing a larger number of regimental officers required admission than you anticipated?—I would confine the establishment to what the wants of the service might require, and I should not go beyond it. I think 30 students would be sufficient, and I would take the best of those who offered.

2338. You would give certificates solely to candidates who could best pass the examination?—In the junior department, I think so.

2339. Colonel *North*.] Would you restrict their age?—I think the regulation now is that they shall not be under 21. It would be absolutely necessary to restrict the age. I think when the career has commenced at an early age, you would seldom have candidates beyond 23 or 25.

2340. Lord *Lovaine*.] Supposing two or three officers of a regiment were desirous to enter, and they had passed good examinations, you would then abstract from one regiment those officers to go through the course?—I think the military regulation would prevent that. At the time I was there, the officer commanding the regiment had always a veto upon the appointment of any officer from his regiment to the college; and the appointment of two from one regiment, I believe, was never permitted.

2341. Practically it would leave it in the hands of the commanding officer of the regiment to select the candidates in his regiment for the service?—I think the commanding officer should not be permitted to do that; I think he should be permitted to state that the duties of his regiment did not permit of the absence of another officer, but he should not have the power of making any objection in principle to officers entering from regiments into the senior department. I have known one or two cases in which that was not permitted.

2342. When two officers put themselves upon the list as candidates for the senior department, would not the choice virtually lie with the commanding officer as to which should have the advantage of getting an appointment upon the staff?—It might.

2343. Would you restrict it to ranks?—No; I would admit officers of any rank, and regulate the course exceptionally, accordingly as the officer might wish. When I was at Farnham, the late Sir Charles Napier, and other officers of rank, who had distinguished themselves in the war, came to the senior department as students. There were four or five lieutenant-colonels there at the time, and eight or ten majors and captains of companies. I said to Sir Charles Napier, "What can be your object in coming here? You, doubtless, come with higher motives and higher attainments than an officer going through the course." I thought it probable that he might require a certain knowledge of sketching ground, of military mathematics, or of fortification. He said, "No; my object in coming here is to do just exactly what the others do;" and he went through the course, and went to the Black Board, demonstrated all his propositions most clearly, distinctly, and perfectly, passed his examination, and got his certificate. Sir William Napier came in the same way, to improve himself in military science.

2344. What age was Sir Charles Napier at that time?—Perhaps 35; I would not therefore exclude officers of that age; it was evidently a great advantage to them. Some officers have come to the college, and said, "I have commanded a regiment on service; I was educated at a public school; I know a good deal of classics, but I see myself upon the eve of being placed in situations which require very considerable military knowledge, which I do not possess." These officers went through a course of fortification, a course of mathematics and military surveying; and they left the institution highly satisfied. I have since had occasion to watch the career of some of those men, and have seen the importance of the instruction they received. I may here say, that when I consented to accept the situation of commandant, I refused to give any pledge that I would devote myself entirely to collegiate duties, and that I should expect and insist upon having a fair turn of real service. Thus, in 1808, when the Peninsular War broke out, I applied for service, and was appointed assistant quartermaster-general to the army in the Peninsula. I joined the army in Portugal and Spain, and was with it till the evacuation of Corunna. In the year 1809, when a great army was preparing for other services on the Continent, it was proposed to me to become assistant quartermaster-general. The Walcheren expedition was the termination of that career. In 1811 I was appointed to the staff in the Peninsula; I went out, and stayed there till 1812, and then I was sent home by a peremptory order

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

of the Government, which the Duke of Wellington could not resist, to become inspector-general of instruction; and that brought me back to the college. I may here mention, incidentally, a circumstance which is well calculated to show, in an important instance, the want of military science in the British army at that time. When a military force was preparing for foreign service, in 1808, a general officer, a friend of mine, came to me at High Wycombe, and said, that he had been appointed to the command of a brigade, and knew not what he might have to do in the course of service; perhaps in the operations of a siege, with the nature of which he was quite unacquainted; that he knew infantry might be called upon to cover the opening of the trenches, to cover the formation of parallels; to guard the trenches, to furnish working parties; to oppose and drive back sorties; and to assault the enemy's works; but was totally ignorant how he should act in such cases; and intreated me to give him at least a general notion of approaches, parallels, the formation of gabions and fascines, saps and all the other processes of attack and defence. I had caused to be made, by a very intellegent cabinet-maker of the place, one of the large models which are now at Sandhurst, in constant use for the lectures on the attack and defence of a half hexagon, of Vauban's first system. It was an easy matter to give, to my very intelligent friend a very considerable and useful idea of such matters, illustrated by reference to the model. He soon afterwards served at a siege, and when we met, he said that he never should forget the three days he was shut up with me, in the model-room at High Wycombe; and that it was impossible to conceive the confidence which that instruction gave him, from a feeling that he understood something of the operation in which he was engaged.

2345. Sir *G. Tyler.*] With reference to the regulation as to the admission of students to the senior department, you would except those who were in that situation?—Yes; I would not make the rule arbitrary.

2346. Of course they would merely go there to study, and would not go through the previous examination?—No; but Sir Charles Napier and other field officers insisted upon going through the examination, and did so with great credit.

2347. Colonel *North.*] From what you have just stated, perhaps you think it would be a good plan that the officers of the senior department should be attached to the permanent camp at Aldershott?—Yes; and for that purpose I would replace the senior department at Farnham.

2348. Lord *Lovaine.*] Do you not think it would be possible to form a system of regimental instruction for the officers?—Certainly, I always contemplated that in the plan that I brought forward.

2349. Mr. *M. Milnes.*] Is it within your experience, that in the combined movements of the artillery and the line the success of such movements has mainly depended upon a knowledge of artillery on the part of officers of the line?—Certainly; a knowledge of the uses of artillery is of the very first importance to staff and general officers. I think no general officer is qualified to command an army in the field, unless he understand the general principles and uses of artillery, in combination with the other arms of the service, infantry and cavalry. A general knowledge of the uses of artillery is, perhaps, the most important.

2350. Would you make that a necessary qualification in the case of officers not belonging to the staff?—Certainly; every staff officer should be as well acquainted with the artillery as with the other arms; and no officer is thoroughly qualified to command an army in the field, without a competent knowledge of that arm. General L'Espinasse, himself an artillery officer, who, when in the command of French armies, attributed, in great part, his success to the possession of that qualification, has well said, "Non que je prétende qu'un général d'armée doive s'appesantir sur les détails de l'artillérie; mais il faut, au moins, qu'il en connaise en grand la théorie et les principes, et surtout qu'il ne soit pas exposé, faute de pouvoir juger des ressources ou des besoins de cette arme, à lui donner des ordres ou inutiles ou inexécutables. Qu'on ne dise pas pour dispenser un général d'armée de savoir au moins manier l'artillerie en grand, le jour de bataille, comme je l'exige ici, qu'il suffit que dans toute affaire de quelqu'importance il se concerte avec le général de l'artillerie. Se concerter avec le chef d'une arme, suppose qu'on connaisse la tactique de cette arme; sans quoi c'est le concert de l'aveugle que l'homme éclairé conduit: or l'homme éclairé

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ose-t-il toujours conduire celui qui ne l'est pas, et qui ne peut ni le juger, ni le disculper si le conseil donné ne réussit pas?"

2351. Mr. *Rich.*] You stated that during the Peninsular War, the Quartermaster-general's staff was very largely supplied by certificated officers from the senior department?—Yes.

2352. You stated also, that in the year 1852 there were only seven certificated officers of the senior department on the general staff; you stated also, that the weight that would attach itself to a highly educated officer coming from the senior department, would almost force his employment on the staff; do you apply that observation more to a time of war than to a time of peace?—Yes.

2353. Taking into consideration the extreme peril that is incurred at the opening of a war by not having at least a theoretically instructed body of staff officers, should you be inclined to recommend any regulations by which the employment of certificated officers on the staff should be enforced during a time of peace?—I think, and hope, that in a future peace we shall have our army in a more organized state as an army than it was during the late peace; the necessity will be seen of keeping it continually organized into brigades and divisions, and that a complete set of staff officers, as perfect as if the troops were in the field, will be permanently appointed. The whole of the British army at home may be so regulated as to form, say three or four divisions, each of two brigades, and the ordinary complement of staff for an army in the field appointed to each division. The army serving in North America might be considered as one division, and it should be complete in its staff, the brigade staff and the divisional staff. The same might be done with the number of troops in Ireland. I think and hope hereafter that all the army will be completely organized into brigades, and divisions, and corps, if necessary, and that all those will, in peace, be provided with a full establishment of staff officers, well qualified, of every description.

2354. As a considerable element of that organization, you would imply a very strict observance of the regulations, with a view to the admission of only qualified officers upon the staff?—Yes, I would.

2355. Mr. *Hardinge.*] Would you lay down a distinct regulation that no officer should be appointed to the staff who had not passed through Sandhurst?—No, I am not prepared to go so far as that. In a highly intelligent country, where education and practical science are making such vast progress, there would, perhaps, be some danger in such a case of excluding from the service of the staff many well qualified officers who had not studied at the college.

2356. The number you propose to educate in the senior department being 30, would hardly meet the exigencies of the service as regarded staff officers?—No. It is not in every department that so high degree of intelligence is required; but it is necessary when the service relates to the marches and movements of armies, in calculating distances, times, and forming march roads; in the combination of movements, the passage of rivers, and the construction of bridges. In the French service the department of bridges is very properly attached to the Etat Major, because the duty of that department which we call the Quartermaster-general's Department is to open march routes across a country in every direction. There may be rivers to cross. The roads and rivers require some material. The officer who makes the reconnaissance, should have a perfect knowledge of the construction of military bridges; and therefore the whole of the bridge department is attached to the staff in the French service, and I believe in all other services but ours.

2357. With regard to officers on foreign service in India, such a regulation as you have referred to would almost exclude them from the staff?—It would; in the case of our army, dispersed as it is in remote colonial and other possessions, it could not be done without manifest injustice.

2358. Mr. *Rich.*] While you would not restrict the employment of the general staff to certificated officers from the college, you would still require a clear specification or proof, by examination, of their sufficient qualifications for the staff?—Certainly; and having accomplished that, they should be recorded as competent accordingly, and that would carry with it a sort of engagement. Having passed an examination, obtained a competent knowledge of the services of infantry, cavalry, and artillery, and having gained a diploma of being well qualified to serve on the general staff, they may go to their regiments; but be recorded

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

specially at head quarters by the commander-in-chief, so that he might at any time lay his hands upon men respecting whose qualifications there could be no doubt at all.

2359. Mr. *Hardinge.*] Would you fix the standard of examination as high as the examination for a common certificate?—Yes, I would; I think it is very essential that the qualifications of our senior department should compare well with the course of study at the Ecole Spéciale. I do not think there is any part that can be retrenched.

2360. Supposing an officer distinguished himself in India on the staff, and showed gallantry in the field as well, would you oblige him to pass through this examination before he could be appointed to a staff situation?—Yes; I think as long as that portion of the army exists, I would not exempt him from it.

2361. Viscount *Monck.*] Would you exclude from the senior department all officers whose regiments are serving abroad?—No, I would not.

2362. Mr. *Hardinge.*] Was it not found that officers sometimes went to the senior department for other objects than that of acquiring military knowledge?—I can easily understand that an officer who came home from a regiment abroad, and went to the college, might be suspected of having other objects.

2363. Colonel *Dunne.*] Was not a report made generally by the governor, when it was found that an officer was not doing any good?—Yes, there was a regulation to that effect. I used to look into those things. I knew, day by day, whether a man was trifling or not. Whenever I saw that a man was really trifling, the first person to whom I mentioned the fact was himself, and he generally withdrew.

2364. Viscount *Monck.*] Did you state that you would require a stringent examination upon entrance to the senior department?—Yes.

2365. That would operate as a bar to officers being at the college without studying, would not it?—Yes; when I was there, if a man came there, and did not do his work zealously, he was quite sure of being sent away.

2366. Colonel *Dunne.*] You stated that in the Peninsular War most of the officers who had distinguished themselves at the Military College at High Wycombe were employed on the staff; are you aware that since that period very few of the officers who have obtained certificates at the senior department have been employed on the staff?—I have already stated that I am.

2367. Do not you think that that is one of the causes which have made the officers in the army less anxious to go to a military college?—I believe it is. Last year there were only six students at the Military College; it was all but extinct.

2368. *Chairman.*] With regard to the general examination for direct commissions, are you acquainted with the examination which now takes place before a young man can get a direct commission?—Yes; it is ridiculously low.

2369. You are not satisfied with it?—No; there might almost as well be none.

2370. What examination would you propose?—The question is, what is the military education that really is required to qualify a young man to be an officer? because, whatever that is, it should be exacted as well from a cadet who passes to get a commission, as from a private individual. I dare say it could not be enforced at present. Since I brought forward that motion in the House of Commons to which I have referred, a demand has been created upon the educational institutions of the country to educate young men intended for the army, so as to enable them to pass any examination that should be instituted. I find that in many of our colleges the military faculty has been added. At King's College, in London, in Edinburgh, and, I believe, in all the great colleges of the country, they have professors of the military art. This demand for military education being thus supplied, it follows that we might increase, by degrees, the standard of qualification of the young men who are to pass the army examination, until it become equal to the examination of a cadet for a commission without purchase.

2371. Did you contemplate one examination only, or an examination upon promotion also?—I contemplated, first of all, one examination only; and then to let them practice for some time. I did not think it safe to begin an examination on promotion, but I saw it would lead to that; and the next step would be to establish schools in all garrisons and foreign stations, under professors or instructors

instructors paid by the Government; thus you would provide an officer with the means of improving himself on the spot at very little expense, and enable him to pass an examination. I would then have the ensign examined before he is promoted, and so on up the scale, perhaps to the rank of captain.

2372. You think that it would be an advantage that there should be a means of educating officers after they have entered the service?—Yes, I think so; but I own it would be very difficult, and require a great deal of consideration; the present is certainly not the time.

2373. Lord *Lovaine*.] In the Belgian army it is stated that there is a captain instructor and schoolmaster in each regiment; are you aware of that fact?—That is the case.

2374. Colonel *Dunne*.] Have not a great many of those men who have gone out without any previous knowledge of fortification, acquired practical knowledge under fire in the trenches?—Yes, and many lives have been lost in consequence.

2375. If those men had known the theory even of sapping and forming trenches, many lives would have been spared?—No doubt.

2376. Lord *Lovaine*.] Would there be any difficulty in having a school of that kind attached to the large garrisons?—Not the least; I think it would be a very important step; the garrisons now are scarcely sedentary enough; but in any large garrison it would be a very advantageous measure to establish professorships of mathematics and fortification.

2377. You think that there might be a school where the men, as well as the officers, could be instructed?—Certainly. I went to the Normal School one day when Lord Panmure was there. He requested me to put a few questions in mathematics to the young men training to be regimental schoolmasters. I did so; and I assure you that they demonstrated many of the propositions from the first four books of Euclid, and solved some equations in algebra quite as well as I had ever known at Sandhurst or any other school.

2378. Mr. *M. Milnes*.] Did you state that you would prefer no examination at all to the ordinary one?—It is ridiculously trifling. As for the examination in history, and I may say even in the junior department upon the subject of history, it is impossible to teach history to boys under those circumstances, I mean the rationale and substance of history; it must resolve itself more or less into the mere chronology of history, a mere mass of dates, got by heart, and if there is nothing more than that, it is very likely to form a very superficial character. I would carry out the specialty of the case, and make the education in history specially military history; for instance, the history of the war of succession, so prolific of the greatest characters in my profession, and in all others. Then I should go to the seven years' war, with the commentaries written by Lloyd and Templehoff and Jomini on that eventful war; I would then go back to the wars of Gustavus Adolphus, and then I would come to our own historian, Sir William Napier, in his history of that most righteous and retributive war which Great Britain undertook in the Peninsula to rescue Europe from its slavery, and which was afterwards ultimately effected on the plains of Waterloo. Surely no British soldier should ever be permitted to neglect that great war; he should always reflect upon it with pride; he may take his best illustrations from the operations of that war, and the way in which they are recorded by the distinguished historian who has written the account.

2379. The Committee have been informed that a great many candidates do not pass this examination; that they are sent back; would you, under those circumstances, think it better that there should be no examination?—I think so; I think the qualification would work its way; I am sure that the examination in history is perfectly ridiculous.

2380. Do you not think it somewhat advisable that there should be an examination which at least implies that the candidate has had the ordinary education of a gentleman?—That I would have; but they are now attempting an examination in fortification, the first plates of fortification. This cannot be taught without a previous knowledge of geometry, and therefore fortification should not be an element of the army examination, which, in my opinion, should at present comprehend classics, languages, arithmetic, and geometry.

2381. You wish that this examination should be rather of a more special character than it is at present?—Yes, of a higher character hereafter.

2382. If even the present examination excludes some few, and delays many young men from entering the army, do you think that the country could afford

General Sir *H. Douglas*, Bart., G. C. B.

15 May 1855.

at the present time to compel the young men to submit to a severer examination? —I think at the present time you must suspend it. I know many instances in which it has been suspended; it could not well be otherwise. But my object is, that it should be more considerable than it is, and that it should by degrees be raised, as the supply in colleges and the schools should accommodate itself to the demand, until it became that which should be fairly considered sufficient to qualify a young man to enter the service as an officer.

2383. Mr. *Rich.*] You take the effect of many persons not being able to pass the examination, which you state to be ridiculously low, as an indication that the education of the officers who were admitted into the army previously to the institution of such a test had been mischievously low?—Yes, certainly; that is exactly the conclusion that I should draw.

LIST OF APPENDIX.

Appendix, No. 1.

Return of the Number of Candidates for Commissions in the Army, not educated at Sandhurst, who have presented themselves for Examination during the last Three Years, specifying the Number that have passed or failed at each Examination, the Number that have been examined Twice or Three times, and the Number that have altogether failed to obtain their Commissions - - - - - - - - - - - - - - - - p. 172

Appendix, No. 2.

Papers delivered in by Sir Howard Douglas, 15 May 1855:

Copy of a Paper containing Observations on, and Objections to, the Recommendations contained in the Report of the Finance Committee, on the Affairs of the Royal Military College, 1817, and addressed to the Commissioners of the Royal Military College, by Colonel Sir Howard Douglas, in 1818 - - - - - - - - - - p. 173

Statement of Military Institutions in Europe, and in the United States of America p. 178

Appendix, No. 3.

Letter from Lieutenant-Colonel Adams, dated 10 May - - - - - - - p. 188

Appendix, No. 4.

Outline of a System of Military Education, in reference to Questions 807 and 844, by Major Addison - - - - - - - - - - - - - - - - - p. 191

Appendix, No. 5.

Letter from the Right Hon. Sidney Herbert to General Viscount Hardinge, G.C.B., on Military Education - - - - - - - - - - - - - - - - p. 193

A P P E N D I X.

Appendix, No. 1.

Appendix, No. 1.

RETURN of the Number of CANDIDATES for COMMISSIONS in the ARMY, not educated at Sandhurst, who have presented themselves for Examination during the last Three Years, specifying the Number that have passed or failed at each Examination, the Number that have been examined Twice or Three times, and the Number that have altogether failed to obtain their Commissions.

DATES.	Presented themselves for Examination.	Passed.	Failed.	Came up Second Time.*	Came up Third Time.†	Altogether Failed.
4 May - 1852	34	24	10	7	- -	Known only at the Horse Guards.
1 June - -	44	33	11	6	- -	
1 July - -	48	31	17	4	- -	
3 August -	45	36	9	8	- -	
7 September -	28	17	11	8	- -	
5 October -	18	16	2	3	- -	
9 November -	56	39	17	12	- -	
7 December -	33	22	11	9	- -	
11 January 1853	45	28	17	9	- -	
8 February -	33	24	9	10	- -	
3 March - -	35	28	7	3	- -	
5 April - -	41	28	13	9	- -	
3 May - -	49	35	14	7	-	
4 „ - -	17	13	4	2	- -	
1 June - -	52	37	15	7	- -	
1 July - -	50	30	20	11	- -	
11 „ - -	1	- -	1	- - -	- -	
2 August -	42	25	17	5	- -	
6 September -	57	41	16	15	- -	
4 October -	37	24	13	9	- -	
8 November -	44	36	8	8	- -	
6 December -	44	38	6	9	- -	
10 January 1854	45	30	15	6	- -	
7 February -	34	24	10	3	- -	
7 March - -	45	31	14	8	- -	
4 April - -	50	33	17	4	- -	
10 „ - -	1	- -	1	- - -	- -	
2 May - -	48	28	20	6	- -	
1 June - -	47	45	2	8	- -	
1 July - -	66	59	7	10	- -	
3 „ - -	40	35	5	6	- -	
8 August -	54	50	4	3	- -	
5 September -	49	41	8	6	- -	
3 October -	53	40	13	4	- -	
27 „ - -	1	1	- -	- - -	- -	
14 November -	50	43	7	3	- -	
5 December -	61	53	8	5	- -	
10 January 1855	48	40	8	4	- -	
12 „ - -	49	42	7	5	- -	
6 February -	38	32	6	1	- -	
8 „ - -	27	25	2	2	- -	
13 „ - -	29	26	3	2	- -	
1 March - -	28	24	4	3	- -	
6 „ - -	27	22	5	- - -	- -	
8 „ - -	30	20	10	- - -	- -	
24 „ - -	14	7	7	- - -	- -	
3 April - -	35	30	5	- - -	- -	
5 „ - -	31	22	9	2	- -	
10 „ - -	19	15	4	1	- -	
24 „ - -	27	20	7	- - -	- -	

* Included in the numbers in the first Column.

† If any, not known.

Royal Military College,
9 May 1855.

Geo. W. Prosser,
Col.

Appendix, No. 2.

PAPERS delivered in by Sir *Howard Douglas*, 15 May 1855.

Appendix, No. 2.

COPY of a PAPER containing Observations on, and Objections to, the Recommendations contained in the REPORT of the FINANCE COMMITTEE, on the Affairs of the ROYAL MILITARY COLLEGE, 1817, and addressed to the Commissioners of the Royal Military College, by Colonel Sir *Howard Douglas*, in 1818.

Royal Military College, Farnham,
4 April 1818.

ON contemplating the suggestions of the Finance Committee in their Report, and the tendencies of the new regulations which have already been adopted, 26th December 1817, in conformity with those suggestions, I am desirous of submitting to the consideration of the Commissioners, the opinions and apprehensions I have been led to entertain concerning the probable consequences of the proposed alterations.

The Finance Committee state their apprehension that the junior department was too numerous in 1816 for a state of peace, since it brought forward a greater number of young men than could be supplied with commissions, while the army is on the peace establishment; and they recommended in consequence the adoption of a more general course of education, such as to qualify young gentlemen to enter into any profession; and in order to diminish the expense to the public, they recommended that the number of cadets on the orphan or gratuitous establishment should be reduced; the rates of subscriptions of cadets on the second establishment, sons of officers serving, increased, and their number likewise diminished; whilst the numbers of the third establishment, sons of private gentlemen, should be greatly increased, and their rates of subscription augmented, with a view to make the college ultimately self-sustaining.

These recommendations have already been acted upon to an extent which has materially changed the character of the institution; and must, if fully carried out, necessitate further prejudicial alterations.

In considering the policy and tendency of those specious proposals, the mere result of financial calculations, I will first beg to make some observations on the original provisions and intentions of the establishment; I will then make some general remarks on the recommendations of the Finance Committee; and lastly, I will consider the character and tendency of those new regulations, which those recommendations have forced upon us.

The junior department was instituted in 1799, by Warrant of George the Third,—

"1st. For the instruction of those who, from early life, are intended for the military profession, and who by this means may be grounded in military science previously to obtaining commissions in the army.

"2nd. It is intended to afford a provision for the sons of meritorious officers who have fallen or have been disabled in the service of their country.

"3rd. For the education, at moderate rates of payment, to the sons of those officers who belong to our regular service; that this branch of the Royal Military College shall have a real military character, as tending more effectually to accomplish the important ends for which the seminary is founded; and, in order that our service may derive every possible advantage from this branch of the institution, that sufficient time and opportunity should be given to gentlemen cadets, not only to ground themselves thoroughly in the rudiments of a perfect military education; but to afford to those who display superior capacity and application, the opportunity of acquiring higher military attainments."

No adaptation of the Royal Military College to a state of peace, by rendering it a place of general and promiscuous learning, can be made, without wholly or partially abandoning the important purposes and special objects for which it was established. It was created a military institution, and when it ceases to be such, by converting it into a seminary for general education, it will lose its character of an excellent special military seminary, in that of an unnecessary and very indifferent general or classical school. If it is not the former, it will assuredly become the latter, and so weaken and gradually lose the only claim it can have on the liberality of Parliament and the support of the country, in acknowledgment of which the noble structure it now inhabits was reared at the public expense, and liberal annual grants have hitherto been made to maintain it.

The Finance Committee naturally made every consideration subservient to their immediate object, that of pecuniary economy, which might certainly be effected to a considerable extent by reducing the general strength of the establishment without effecting or changing its system; but on a revision of their report, the Finance Committee will not fail to perceive that, by their mode of adapting the junior department to a state of peace, the whole character of the institution must be changed.

Appendix, No. 2.

If even it could be adapted to the wants of a state of peace in the manner recommended, such an institution would not be necessary at all, for *to* a state of peace a military college is not required. *In* a state of peace such institutions are indispensable to prepare for a state of war. The Finance Committee suggest, indeed, that having, as they recommend, adapted the curriculum to the wants and purposes of general education, the college may, on the breaking out of war, reassume a more military character, and revert to its special and primary condition of a military seminary. But the question is simply this: is it intended to have institutions for military education or not? It must ever be remembered that it is only by cherishing these establishments during peace, that we can hold-on the advantages we have gained by having established those seminaries, and so prevent military science from relapse. If the necessity of keeping up, during peace, the military institutions of the country be admitted, and assuredly it cannot be denied, we must not conceal from ourselves the fact that to keep those institutions in a state of efficiency at the breaking out of a war, the expense of maintaining them during peace must be incurred. The number of highly educated cadets may in the meantime be inconveniently great, but if the institution is to fulfil its object, it is to form and hold in reserve, or distributed throughout the army, numbers of well-qualified officers, sufficient to meet the extensive demands of a state of war, in every branch and department of the army.

It is no doubt highly proper, that in the longer period during which cadets may remain at the college on account of the difficulty of giving them commissions in peace, facilities of every description should be afforded to the gentlemen cadets to accomplish themselves in any branch of study which form the education of a gentleman; but this should be extra-professional, and not carried so far as to interfere with the special branches of military education.

With respect to the recommendation of the Finance Committee, of an increased subscription by the cadets of the third establishment, this will no doubt be advantageous, if it should not produce the effect of thinning their ranks; but in regard to increasing the subscriptions of the sons of officers serving, or on half-pay without having taken the difference, and a great diminution, if not an abandonment of the gratuitous establishment, I cannot think that if the severity of these alterations had been pressed home to Parliament, and to the country, that the Commissioners would have been laid under the necessity of infringing or abandoning the endowments which it was one great object of the institutions to provide for the sons of officers serving, and to reject the orphans of those to whom those benefits had been originally pledged by Royal Warrant.

I cannot conceive that the persons who by acclamation were prepared to vote millions to erect national monuments to the military glories of the late war, would for the sake of perhaps a very few hundreds, deny the promised advantages to the very men whose names were to be inscribed on those very monuments, as deserving the gratitude of the country. But this is done; and being so, I am now to consider the tendency of those measures by which the institution is to be adapted to the views of the Finance Committee.

The main object of the recent alterations is, to attract to the college young men of condition, of advanced age, who entering with high classical qualifications may remain at the college for a short time, pursuing a general course of education, without a view either to obtaining a commission from the college, or to come forward as candidates for commissions upon a reduced scale of military acquirements; or who may not be intended for the army at all. For this purpose the qualifications on entering are relaxed much in favour of the branches taught at our great schools; and the course of the Military College is so arranged as to give great weight to those classical attainments in the student's progress through the college. Thus a great distinction is made, at the very outset, between those boys who are pursuing the military or old course, and those who take the classical line. This distinction presents two important questions for our consideration: first, the abstract merits and general tendencies of the new course; and secondly, its influence upon the other, from the inconsistency of two such different courses being studied in an institution whose object should be special, and the difficulty of encouraging the one without discouraging the other.

When boys for either establishment are brought forward for examination, a choice is given between two natures of examination, viz.: either a great degree of classics with a slight knowledge of figures, or a considerable knowledge of figures with a little classics; and this choice, once made by the pupil, is intended to regulate the character of the course which that pupil will have to pursue. If he take the line pointed out by the new course, he will mainly attend to classics, history, and languages; and, by passing an examination in any three of these, will receive a commission without having done more in military branches than the rudiments of military drawing, the first four plates of permanent fortification, and having read the first six books of Euclid, but without proving to the Commissioners that he knows anything about them. With respect to classical literature, the amount of it which can be acquired at the college will ever be small; and should the cadet have previously made much progress in it, that knowledge cannot be much extended at the college. Instruction in this branch of learning can be obtained by boys elsewhere more perfectly, and it cannot be considered that such a course as this is sufficiently of a military character to be rewarded with a commission at a military school, though classical accomplishments are no doubt an essential part of the education of a gentleman. With respect to history, a great part of that is included in classics; and what is not, can only be considered as the mere elements. If it be very general, it cannot be much otherwise than a chronological recapitulation of dates, of memorable events, and the characters of the principal personages;

sonages; all of which is useful as the elements of future study, but surely not that upon which we are justified in bestowing a high military reward. It is said that these new branches of study are added to the acquisition of the military attainments to support the pretensions of the candidate to a commission; but the manner in which these new branches will be studied by the class of cadets alluded to cannot be such as will justify the opinion that they will compensate for the deficiencies in other studies. It will be certified to the Commissioners, who witness the classical examinations, that the candidates have executed drawings of the simplest French systems of fortification, a little military drawing, and that they have read the first six books of Euclid; and the Board will, of course, on the faith of such report from the authorities of the institution, grant their recommendation. But military science is altogether practical. No elements should be taught without applying them to practical purposes. General elements of science are taught in schools and universities polytechnically, because it is not certain for what professions, pursuits, or tastes they may be wanted; but we know what is required of us; and in the particular point now under consideration (the Commissioners' reference to the military branches as pretensions in part for claiming a commission) the elements are of no value; they are superficial and absolutely discreditable to us, unless they be carried out to the practical application of their principles and means of execution. Fortification cannot be taught, to this extent, without a knowledge of superficial and solid measurement. Military drawing is confined to merely copying plans, if it be not accompanied by a knowledge of the principles on which are founded a just perception of the qualities of the ground as a military position, or with respect to the march of troops upon it. The Commissioners can never intend to bestow upon the mere labours of a copyist the consideration due only to the military surveyor; and, for the practical application of military drawing, a good course of practical geometry in the field, plain trigonometry and its application to the determinations of heights and distances, are indispensable. For this purpose the nature and use of logarithms must be studied; and logarithms depending upon the properties of geometrical and arithmetical progressions, these last must be included in the course, with a knowledge of the extraction of roots. The geometry contained in the first six books of Euclid, or any other course of geometry, is a merely elementary subject, which, to merit any certificate of practical utility, should at the very least be carried to the branches I have enumerated. This is a just statement of the military qualifications which are hereafter to be rewarded with commissions; and the Commissioners will do well to consider, thoroughly, with what justice to the service they can supersede the solid pretensions of pure, well-grounded professional education by so superficial a military course, and one which may be acquired at any school. We shall also do well to consider, if we do act on this principle, whether it is not, in fact, going very great lengths towards the ruin of the college as a military institution, because the proposed measure tends to the annihilation of its military character; whether we are not ceding to men who, if not hostile to the establishment, certainly know little or nothing about the necessities, objects, and provisions of our foundation.

The polish of general education is no doubt necessary to officers; but the original regulations provided for as large a share of those as is necessary. Classics, history, geography, natural philosophy, are all among the accessory branches originally contemplated; and if, in the longer period which boys may be obliged to remain at college, from the difficulty of getting commissions, it be thought proper to carry these still further, it might be done without any new regulations, or certainly without such very decided violation of the old ones. Convinced that the college can only stand as a military institution, I would rather have endeavoured to raise its professional reputation by raising the characteristic branches, than by lowering them. I would rather endeavour to make it attractive to young men fairly intended "from early age" (as the regulations say) for military life, than to those who will merely come to us to pass that interval which lies between being too old for a school, and too young to obtain a commission.

By the new regulations, boys may enter the college till they are 15 years of age, and such will, therefore, be 18 before they quit. Now, there is something very inconsistent in extending the age of admission to 15 years, for the purpose, mainly, of getting greater classical attainments, and at the same time relaxing the college course for the same end. If a greater degree of classical knowledge is to be taught at a military college, a greater degree of other knowledge should be required on entering; and when a great degree of the former is imported into the establishment, a greater extent of the other branches of study should be taught there.

The Finance Committee imagine, or at least assert, that an alteration in the character of the institution, by relaxing the military studies in favour of general education, will render the establishment less obnoxious to our free constitution; and, by attracting general students, will besides qualify men sufficiently for the military service; and, as their report expresses it, "sufficiently to lead the armies of a free State." In regard to the former, I am sure it is quite the reverse; and that when they come to reconsider it, they will admit that this very alteration, by increasing the number of youths who, though educated under military law, are not designed for a military career, will render the establishment much more obnoxious to the constitution than it was before; and I may observe that if the armies of a free State be led by officers imperfectly acquainted with their profession, those armies might soon find their land of freedom transformed into a conquered country.

It is expected by these changes, or, as they may be called, concessions in favour of general education, to attract to the institution young men not absolutely destined for the military

Appendix, No. 2.

profession, such as eldest sons who may enter, and trifle with it for a time; and it is expected also to get some young men not intended for the military life at all. But it may be asked, how will these young men, who do not of course feel at all dependent upon the Commander-in-Chief's favour, endure the military discipline of the institution, which we have always found rather insufficient to keep in subjection the most needy dependents upon the Commander-in-Chief's patronage? These young men of independent views and fortune will, of course, scoff at threats of the Commander-in-Chief's displeasure; for the greatest extent of that displeasure can only amount to a refusal of admission into the army to those who perhaps never intend to follow the profession of arms. The only punishment will be expulsion, but this, in consequence of its effects upon the revenue of the establishment, will be very tenderly resorted to. Financial considerations have forced us to receive these boys; and, as matters now stand, the same considerations will force us to keep them, in some cases to the injury of the establishment; for we must be careful how we disgust that description of pupil for whom we have sacrificed so much, in order to make the college self-sustaining. I do not, however, think that we shall have many such pupils. No man of sense who does not intend his son for the army, will send his boy to an institution where he must acquire habits, and form many friendships, that will attach him to the military life. If any such pupils do come forward, it will be such as cannot be controlled by the discipline of an ordinary school, or by the authority of the parent or guardian, and such gentlemen will do the college no good.

So long as we educate, only, young men chiefly dependent upon, or really intended for the military profession, we confine all observations affecting the existence of the college to this simple question: having an army, is it not necessary that its officers should be educated properly, to act and serve as such? But how will the case stand before the public, if the system of the Military College should be so changed, as rather to adapt it to the education of a large portion of young men of condition, not intended for the army? To educate, in a military establishment, young men, who are to fill, perhaps, at some time, high civil offices of the State!

To give a valuable consideration to cadets of the third establishment, in return for the increase of subscription to 125 *l.* a year, by an improved liberal education, it is proposed, chiefly for them, to introduce instruction in astronomy, and to give lectures on natural and experimental philosophy, chemistry, geography, &c. &c.; and it is said that these acquirements will be highly useful to almost every officer so qualified, at some time in the course of his service. Now, it is impossible to give any just conception of astronomy, far less any practical knowledge of it, to a youth who knows nothing of trigonometry, the projections of the sphere, the conic sections, and the refined calculus employed in the investigations relating to that branch of science. To attempt to teach astronomy and experimental philosophy to young men who are not thus previously qualified, will be disreputable to the institution. The erection of an observatory, as proposed, will be advantageous only for the purpose of giving instruction in the practice of making such celestial observations as are subservient to the determination of the geographical position of some important place in a foreign station, to the orientation of a plan of a country, and the like.

There remains one material point to be considered. As our profession leads in many cases to high situations of great importance to the State, it is said, that the system of education should be adapted likewise to the instruction of those who may become governors of colonies, generals, or military diplomatists, or other high and important stations, into which officers of high rank in the service may be thrown; but this is applying education to the wrong end of life. These high qualities are not to be learnt in any school but that of service and the world. They are indeed the fruits of a good education, but they must be cultivated during the progress of an active life. We can no more educate a boy purposely for the government of a colony, or for a situation of high administrative trust, than we can educate a boy purposely to be, at once, a great commander. The elements of the qualifications required for any situation to which military men may rise were provided for in the institution as it was; and what is wanting can only be supplied by talent and judgment in a life of industry, zeal, and honour. Let us take a view of the course of study which is arranged for those young men of good condition, who, it is hoped, will be drawn to the college, and whose interest may be most likely to reach those high situations, to which it is presumed that they will aspire. A young man joins the college, at, perhaps, 15 years of age, with certain classical qualifications, and takes the literary and classical line, which by the new regulations he may do, with almost total disregard of mathematics if he does not look to the college for a commission, and with very little if he does. Yet we engage to teach this boy astronomy, and a good course of natural and experimental philosophy. That something may be gained from these lectures may be admitted, but it will be the mere smattering which a boarding school boy gets from the itinerant lecturer. Surely this is not worthy of a national military establishment. The other pursuits of these scholars will be classics and general history; I should call it the chronology of history, with languages. Am I wrong in calling this a very superficial course? Will young men so educated be likely to make good subalterns? Will they not be above their work, and apt to overlook what they will consider the drudgery of regimental life, and will they not aim at once at higher posts?

I would not upon any account, or for any consideration whatever, permit any boy to pass through a military college, without submitting his mind to the test and discipline of a good mathematical course; and my experience tells me how to estimate the intellect of that boy who

who cannot make a useful progress in it. I assert, also, that he who cannot solve a simple mathematical problem, though it may not be one which is likely to enter into the future exercise of his profession, has not mind enough to solve the more difficult problems that may one day demand the exercise of his intellectual powers. Is not this the reasoning which has led to the encouragement of mathematics at Cambridge, and to the scientific superiority of that university? And is it not the value which the world justly attaches to this principle, that forced Oxford of late years to attend very much to the cultivation of mathematics? Observe the distinction which a Wrangler carries with him through life; watch the progress of the young man who is distinguished at the University in mathematical science. To our professional school, a mathematical education is absolutely indispensable; students should never be advanced in any branch, or put to any study, without being previously grounded in the elements and principles upon which their practical efficiency depends. And I would not grant a recommendation for a commission to any boy who did not pass a good examination in a suitable mathematical course.

It may be said, and this must, I imagine, have been admitted, as the chief reason for opening the doors of the college so largely to a description of young men who command the means of getting commissions by purchase, that this has been done to draw a current of students through the college, who are not entirely dependent upon the recommendations of the Commissioners. But it will be found, that the terms upon which we have engaged to receive young men pursuing the new course, will increase in a very formidable degree the greatest difficulty we have to contend with: that of giving commissions to such as are considered qualified for them. For it is quite clear that the succession of young men, joining at 15, with high classical qualification, will be more rapid than the succession of younger boys through the old course. If the succession of the former is not more rapid than that of the latter, then there will be many boys of 19 and 20 years of age at college who will be disappointed of those expectations which were their motives for entering the institution.

A clever boy will certainly pass through such a course in two years; and if this continue, the old course taking four years, you will have to bestow twice as many commissions upon cadets following the new course, as upon such as receive a truly military education; and when this is understood by the public, it will be found that a greater proportion of boys will, in their studies, take the line of general literature as a means of qualifying themselves for commissions.

If this be checked (as undoubtedly it must be, in justice to the service and to the cultivators of the military course) by increasing the military branches beyond the extent which is now considered sufficient for boys of the former class, it must follow, first, that you will have a great accumulation of young men of 18, 19 and 20 years of age; and ultimately, that you will drive from the establishment the very description of men whom you are now so desirous of attracting to it. That this embarrassment must come is quite clear. One or other, or both, of these classes must suffer; and it is difficult to say in what degree. Under the difficulty of getting commissions, the great object should have been to check the applications for commissions. The way to check the applications is rather to shut the door against boys beyond a certain age, than to open it; and rather to increase the qualifications required for commissions than to lower them.

From all this reasoning I venture to conclude:

1stly. That the recent changes involve an abandonment of the original objects, principles, and provisions of the institution.

2dly. That it is in danger of losing the character of an excellent military college, for that of an unnecessary, a very inefficient, and indifferent general school.

3dly. That the discipline, regularity and morality of the institution may be injured.

4thly. That these alterations are calculated to excite the jealousy of the university, and of other educational establishments of general learning.

5thly. That it will become unpopular in the army at large.

Lastly. That when the nature and tendency of these changes shall become apparent, we shall find that, whether considered as an establishment of purely professional utility, or as a compassionate endowment, the college will have far less claim, either upon the interests or the humane consideration of the country, than if we had stood firm upon our original ground. And I have no doubt, that neither the Finance Committee nor the Parliament would have materially interfered with the institution had it been aware of the circumstances above indicated; and we should do well yet to consider what may be the result, when it is known that the provision made by the country for the college* is enjoyed by young men, a great majority of whom can afford to pay 125 *l.* per annum for their education, while many of them are not pledged to enter the profession, and even are not accomplished in the military branches of the profession; that none pay under 40 *l.* per annum, and not much above one-fourth of the whole number are real objects of national protection.

* The Parliamentary Grant for 1817, was 27,764 *l.*

Appendix, No. 2.

STATEMENT of Military Institutions in *Europe*, and in the United States of *America*.

At no time has the subject of military education been so much attended to as it is at present. Whatever be the form of the government, every nation in Europe, and the principal states in other quarters of the earth, as well the most ancient monarchies as those which are yet in their infancy, countries in the highest state of refinement, and those just emerging from barbarism, all have provided ample means for conferring the benefits of education on the defenders of the State, and particularly for diffusing among officers of the different arms an adequate knowledge of the sciences on which the practice of their profession is founded. At no time, also, has it been better understood that the important duties of an officer are most zealously and efficiently performed by one who has acquired for those duties the taste which is excited by a study of the higher branches of the military art, and who has at the same time obtained a facility in applying its scientific principles to the particular circumstances under which he may be called upon for the exercise of his skill and judgment.

The Ecole Polytechnique was founded in France at an early period of the Revolution, to encourage, cultivate, and spread a very general knowledge of the mathematical, physical, and chemical sciences, and of the graphic arts, not with immediate adaptation to any special profession, but, as the term signifies, to qualify students to enter into any branch of the public or civil services which require an extensive knowledge of the mathematical, physical, and other sciences so well taught at that institution.

The Ecole Polytechnique is likewise the principal school for the education of young men who are to enter the military and naval services of the country: its adaptation to that important object it may be interesting to the Committee that I should fully explain.

Any young man between the age of 16 and 20 may declare himself a candidate for entering, on examination, the Polytechnique School, by inscribing his name in the books or registry kept at the prefecture in the cities and towns in which examinations are held; his declaration being supported by—

1st. A certificate of age.

2d. Certificates, from authorities at his place of residence, as to his good moral conduct; and a medical certificate that he has no bodily defect or infirmity.

3d. A certificate from the prefect or sou-prefect that the friends of the candidate are in a condition to pay the annual subscription of 1,000 francs.

These certificates are necessary to authorise the Committee to examine a candidate; but, if successful, he cannot be admitted without entering into a bond in proper surety to pay the subscription quarterly in advance.

The examination of candidates takes place annually at Paris in the month of August, and subsequently in all the chief cities of France, of which public notice is duly given.

The Committee of Examination, under the presidency of a person eminent in science, specially appointed by the Minister of the Interior, is composed of the prefect of the department, the director of the local college, and three members of the Academie des Sciences of the Institute, named annually by the Minister of the Interior.

The Committee having assembled, calls up all candidates, examines their certificates, inscribes their names on separate slips of paper put into a box, and drawn out in three classes, to regulate the order in which the candidates are to be examined by the three examiners, who adjourn thereupon into three separate apartments, and there examine in public the candidates assigned to each.

On the return of the Examiners to Paris, usually about the end of September, a committee is assembled at the Polytechnique School to receive the report of the several Committees of Examination, and make a list in order of merit, as reported by them, on the examinations which they had made, also to transmit to the Minister of the Interior a list of the successful candidates, who thereupon issues letters of admission in the order specified in the list, according to the number of vacancies there may be in the various branches of the public service to be supplied from this establishment, and to the number of students who may have declared themselves candidates to fill those vacancies.

In order that the supply of candidates for public service may be sufficient and certain, every candidate for reception must declare to the examiners whether he intends to devote himself to the public service, and if so, to what branch in preference, naming all branches in succession, so that should the branch of his greatest preference be filled when he passes his final examination, it may be known in what order he wishes to exert his right, according to his standing on the list.

Candidates may enter the college without intending to devote themselves to the public service; but they must go through the same course, and be subjected to the same trials, and undergo final examination, to obtain a certificate attesting their qualifications, and in order of merit, as those who are candidates for the public service; but should those students change their minds, they may at any time declare themselves desirous of entering the public service, and assert their right of preference, according to their standing in the general list, as already explained. But in such case they can only compete with students admitted in the year in which such declaration is made.

There are 200 students in the college, including 24 gratuitous places for the education of students at the public expense. These nominations, called "bourses," are placed at the disposal

disposal of Government, 8 to the Department of the Interior, 12 to the Department of War, and 4 to the Department of Marine. These "bourses," each of 1,000 francs, may either be given entire, or be distributed in halves, or even quarter "bourses," to students, according to the circumstances of their parents or their friends, and thus the number of nominations to participate in the distribution of those "bourses," and the benefits thereby conferred, are increased.

Two years are allowed for the course of study, which may be extended to three years.

The course is arranged in two divisions. The second, or lower division, is composed of students entered in the current year, or such as have not passed through the course of study prescribed for that division in the preceding year, and to whom a year of grace has been accorded upon the recommendation of the Committee of Inspection. The students live together in a public building, according to a general regimen: they are dressed uniformly, but, "sans apparail militaire."

The functionaries attached to the establishment are, a Director; a Resident Governor, usually a general officer, chosen from among the principal public functionaries of those departments to which the school furnishes "élèves;" an Inspector of Studies, 6 Sub-Inspectors, whose duty it is to superintend the students, as well during study as in recreation. The administration and instruction are controlled and inspected by special committees, which assemble for the former purpose at least once a fortnight.

The Council of Administration is composed of a Director as President; the Inspector of Studies, one of the Professors, named every second year by the Minister of the Interior; two Sub-Inspectors; and the Administrator, Treasurer, and Secretary of the establishment. This Council regulates all that relates to the expenses and credits, according to the annual budget.

The Conseil d'Instruction is composed of the Director, President, the Inspector of Studies, the ten Professors, the Librarian, Treasurer, Secretary, and Chaplain. This Council takes cognizance of all that relates to the teaching and course of studies; enforces the execution of the programme of instruction, and all other regulations. It also digests and proposes such alterations as may appear useful, and recommends as such to the "Conseil de Perfectionnement," one of the two superior committees.

The Conseil de Perfectionnement is composed of three persons of eminence in the state and in science; three members of the Academies of Science, named annually by the Institute; one Inspector-general of the corps of "Ponts et Chaussés" (Civil Engineers); one Inspector-general of Mines, one Inspector-general of Artillery, one Inspector-general of Engineers, one Inspector-general of Geographical Engineers, one Inspector-general of Naval Architecture, all named annually; and the two Public Examiners in Mathematics.

This superior board meets annually, after the examination, to collect, compare, and prove the results which the establishment may have produced for the public good, and to propose any measures they may think necessary to improve or correct anything that may have been amiss in the previous period; to maintain good order, stimulate the assiduity of the élèves, and tend to the well-being of the institution. They examine the accounts of the department, and make an annual report through their President, a copy of which is submitted to the three Ministers of State for the Interior, War and Marine Departments.

The Conseil d'Inspection assembles once in three months at least, to receive the reports of the Conseils d'Instruction and Administration, to inspect all that relates to the interior government, and to report to the Conseil de Perfectionnement, and, if necessary, to the Minister of the Interior forthwith, any case of immediate importance.

The programme of the course of study comprehends the highest branches of mathematical analysis; the calculus of probabilities and descriptive geometry; mechanics, with the uses of machinery; physics and chemistry, topography and architecture, besides the French, English, and German languages.

Examinations.

Before these commence, the ministers to whose department belong the different special Schools d'Application, which are supplied with élèves from the Ecole Polytechnique, indicate how many students they severally require for their respective special schools in the course of the next current year, so as to regulate the total number of students to be taken from the Ecole Polytechnique, and consequently the number of places to be supplied by new entries into the establishment.

The students undergo very strict and searching examinations in the various steps they make in passing through the course of instruction, as well in passing from the second to the first division of the school, as during the whole of their progress in mathematics, physics, chemistry, descriptive geometry, in conformity with the general regulation to those effects.

The examination of the second division is to prove the qualification for entering into the first. Those who do not pass, may, if thought deserving, have one year of grace; but if they do not then pass, they must quit the establishment.

The final examination "de sortie," is made in public by the public examiner, who must, in Council, after the examination, prepare the list in order of merit, which is then submitted to the Conseil, as already stated, who thereupon regulates the succession of students by choice to the several services and departments, according to the requisition made by the ministers of those departments of the public service, and states the number of vacancies thereby made in the institution to be filled by candidates in the manner already explained.

The élève who stands first on the list of candidates who have passed the final examination is called up first to make his choice. If he select the Engineers, he is sent to L'Ecole

Appendix, No. 2.

d'Application de Génie at Metz for practical instruction in that branch of the public service. If he choose the service of L'Etat Major, he is sent to the Ecole d'Application. If he choose the Artillery, he is sent to one of the Ecoles d'Application of that art. If he prefer to enter the Corps of Ponts et Chaussés (Civil Engineers), he is sent to some place where great public works of that description are carrying on. If he prefer the department of Naval Architecture, he is sent to one of the great naval arsenals, and thus is placed at the choice of the students in order of succession, the entry into any department of the public service which may yet remain open to the students until the whole are disposed of.

The numerous works on pure and practical science which have been published by *anciens élèves* of the Polytechnique School, attest the great merit of the institution; while the discoveries of its pupils, Malus and Fresnel, reflect the highest honour on the branch of service to which those distinguished men belonged.

L'Ecole Preparatoire, La Flèche, is established for the preparatory education of boys of from 10 to 15 years of age, intended for the military profession; hence to enter L'Ecole Spéciale de St. Cyr, on passing the examination for entering into that special school.

The establishment of the preparatory school at La Flèche consists of 500 students, of which 300 are maintained and educated at the public expense. All applications for admission, whether gratuitous or otherwise, are addressed to the Minister of War. The gratuitous places are granted—

1st. To the orphans of officers killed, or dead of wounds.

2d. To orphans of officers who died in the service, and retired officers disabled in the service.

3d. To children under charge of the widows of officers killed or dead of wounds.

4th. To children under charge of widowed mothers of officers who died in the service, or of disabled officers on the retired list.

5th. To children of officers who had suffered the loss of a limb or arm, or otherwise disabled by wounds.

If any gratuitous places should remain after having provided for the above cases, that provision may be granted to the sons of general and other officers, who have been admitted to the retired list on account of length of service.

The number of cadets to be admitted to paid places not to exceed 200; the rate of subscription 1,000 francs, exclusive of the outfit (*trousseau*), which may be commuted by paying 500 francs.

No candidates can be appointed to gratuitous places without the *appui* of the following certificates:—

1st. Certificate of birth, to prove that the candidate is not under 9, or above 11.

2d. Medical certificate that the candidate has no bodily or other defect that may disqualify him for military service, and that he has had the small-pox, or been vaccinated.

3d. The certificate of a teacher, or public examiner, that the candidate reads well, writes a good hand, knows the first rules of grammar, and the first four rules of arithmetic. If 10 years of age, he must know Latin grammar; if 11 years of age, he can enter the sixth class, of humanities.

4th. An official certificate of the services, rank at the time of death, in action, of the father, or of wounds received by him.

5th. The certificate of the sou-prefect, that the candidate and his relatives are in poverty, and that the gratuitous place he seeks is the only means of providing for his education.

The course of study is classics, according to the course of the Civil Colleges established throughout France, comprehend:

An elementary course of mathematics, history, and drawing. The youths are well set up, and drilled as soldiers, and are well exercised in everything that can tend to develop their strength, and to fortify and prepare them for the fatigues of military service.

The students remain at L'Ecole Preparatoire till 16 or 17, and another year may be granted to those (if well behaved) who have not been able to acquire the instruction necessary to enable them to pass the final examination for entry into L'Ecole Spéciale de St. Cyr, into which establishment are admitted all youths who have finished the course and passed the final examination at the preparatory school.

The Special School at St. Cyr (which had been founded in 1804 at Fontainebleau) is for young men from 16 to 18 years of age; at one time it had among its students such as were destined for the artillery; but, reduced now to its original plan, it is a nursery for officers of infantry. The course of study, which is very extensive, though less so than that of the Polytechnic School, continues during two years, and the pupils, after passing an examination satisfactorily, are commissioned as sub-lieutenants.

The admission of candidates into the Special School is by public competition of youths above 16 and under 18 years of age, held every year in July or August in Paris, and subsequently in every town or city in which there is a civil college or schools, previous notice being given to the public of the days when such examinations will be held. The names of candidates are to be inscribed in lists at the prefecture or sub-prefecture 15 days before the examinations are opened; they lodge at the same time a certificate of age, a certificate of a medical officer attached to a military or civil hospital, that the candidate had the small-pox, or has been inoculated or vaccinated. A certificate from the under prefect, that the parents or relatives of the candidates thus competing for paid places in the college will pay the annual subscription of 1,500 francs to defray the expense of the *trousseau*, or that they will

will commute the same by a deposit of 750 francs, and support the youth in the service, if needful. Appendix, No. 2.

The examiners class the candidates in order of merit, as proved by their examinations, and report the same to the Minister of War, who grants the number of appointments in order as the names stand in the list, according to the number of vacancies, and with due regard to the number of places that must be kept vacant to receive the youths from the Preparatory School, who may pass from that to enter into the Special School.

At every annual examination the three most distinguished students of those who have held the situations of under officers, that is, those who have conducted themselves best during their term at this Special School, and who have given the greatest proof of having benefited by the instructions, and of zeal for the service, and who are without private means or resources, are awarded an annual allowance of 300 francs, until they shall have attained the rank of captain.

Candidates who have most distinguished themselves at the Ecole Spéciale, in their progress through that institution, and at the final examination, and who have shown superior ability and aptitude in the acquirement of those branches of science or other qualifications which peculiarly fit them for the service of the Etat-major, are specially reported as such to the Minister of War, and a sufficient number of these highly qualified young men enter annually into the Ecole d'Application as élèves for that important branch of the service.

The school at Metz, which is solely for officers of the artillery and engineers, was formed in 1804, by the union of the School of Engineers, which had been established in 1748, at Mézières, and the school of artillery, which was originally at La Fère, and subsequently at Chalons sur Marne. The course of study was at the same time made to harmonize with that of the Polytechnique School.

This Ecole d'Application d'Artillérie et du Génie is annually supplied with very proficient élèves, who enter from the Polytechnique School after their final examination there, in the manner that has been already shown, in addition to the students which this Special Artillery and Engineer School receives from the regimental schools of their respective branches. The rank of sub-lieutenant is given to all élèves on entering into this Ecole d'Application; and after four years' service they obtain the rank of lieutenant, subject to general regulation, regarding advancement or promotion, which specifies that one-third of the vacancies of sub-lieutenant in the artillery and engineers must go by seniority in those corps, and, consequently, only two out of three vacancies can be given in l'Ecole d'Application.

Artillery Regimental Schools.

One of these is established at the head quarters of each regiment of artillery; these form two classes, great and small, according to the magnitude of the artillery stations at which they are established. Those at Metz, Strasburgh, Toulouse, and Douay, are each under a major-general. Those at Auxonne, La Fère, Valence, Rennes, are under the commands of the colonels of the regiments quartered there. There is likewise a great artillery regimental school established at Vincennes. A building is appropriated to each school for theoretical instruction, with an extensive library, depôt of maps and plans, cabinets of natural history, a chemical laboratory, model room, and every other facility provided for the improvement in the science of that important arm of the service, for which teachers are liberally paid, and an extensive practice ground, or polygone, is provided at each of these artillery schools.

Besides the schools for the education of the officers in the French army, two schools, on the principle of mutual instruction, are attached to every regiment of infantry and cavalry. In the lower school youths are instructed in reading, writing, and arithmetic; in the upper school, in geometry, elementary fortification and surveying ground. In 1831 the number of pupils in the lower schools was above 35,000, and of these, between 7,000 and 8,000 were qualified for admission to the upper schools. It may be added, that an institution for firing was opened at Vincennes in 1842, the intention being to improve both officers and men in the practice of firing at a mark.

Prussia emulates France in a provision of means for educating men of all ranks in its military service. In that country there exist five military schools, which have been established at Bensberg, Culm, Wahlstadt, Potsdam, and Berlin; the four first are for young men of respectable families, as the sons of officers, farmers, or even private gentlemen, who enter the army as volunteers; when, having served in the ranks during a year, and qualified themselves in one of the schools to pass an examination in the elements of mathematics, geography, and the French language, they obtain the post of ensigns, who in the Prussian service are only the highest class of non-commissioned officers. The candidate is afterwards sent, at the expense of the Government, to a military school, which is attached to each division of the army, where he qualifies himself to undergo a further examination, after which, if successful, he receives his commission. The Military Academy at Berlin is for commissioned officers, either such as proceed to it from the divisional schools, or any, whether of the infantry, cavalry, or artillery, who can get leave of absence, and can undergo the required examinations. At this institution the students are instructed in the higher branches of mathematical and military science: this course of study continues during three years, when, after passing a final examination, the students return to their regiments, where they are advanced, according to the degrees of merit displayed at the examination, as far as the rank of first captain. In time they receive appointments on the general staff of the army, or as adjutants of brigade or division, or they are admitted to the topographical *bureau*. The teachers in the Academy at Berlin are distinguished officers of the general staff of the artillery or engineers; and it is said that one-fourth or one-fifth of the officers in the Prussian army have received their education in one or another of the four schools above mentioned.

Appendix, No. 2.

There is also at Berlin an institution called the General School of War, which is considered as the seminary for general officers; and in 1843 the students in it were divided into three classes, each consisting of 40 officers; these continue in the institution during three years, when, on quitting it, they receive a diploma.

By a judicious regulation, which prevents officers from entering the schools merely for the purpose of evading military duty previously to a contemplated retirement from the service, each officer engages, for every year spent at a divisional school, to serve one year after quitting it; and for every year spent in the Academy at Berlin, to serve three years after leaving that institution.

In 1845 the Prussian Minister of War reorganised the Academy, the intention being to secure in future such an education for officers as should train them for service both as soldiers and citizens, by blending more intimately moral and scientific with military studies; the principle assumed being, that the expansion of the mind, which conduces to the humanization of manners, is as necessary to an officer as the acquisition of military discipline and habits.

In Russia there are numerous special schools for the army and navy; and the number of students educated as officers for these two branches of the public service is said to be 9,000, while the whole number of persons receiving military instruction in the country is about 18,000.

Besides the general institution, called the School of Pages, and the School of Cadets, established at St. Petersburg and Moscow, there is in the former city a great military academy, which was founded in 1830 for the education of officers intended to serve in the artillery, the engineers, and the état-major.

In 1838 the Academy of Cadets for the cavalry and infantry of the Imperial Guard was re-organised: the number of students was fixed at 108, all of whom are youths of noble birth, and the ages of their admission are from 13 to 15. They constitute a squadron of cavalry and a company of sub-ensigns for the infantry. Their course of study is extensive, and those who are admitted from the corps of pages are educated at the expense of the Crown.

By a regulation in 1844 no man is allowed to hold a commission in the Russian army who has not passed a satisfactory examination in Russian grammar, in the German and French languages, arithmetic, national and general history, and geography; and who has not attained a certain knowledge of the physical and political condition of the different states of Europe.

In the military colonies of Russia, every regiment has its school, consisting of 300 boys, the children of enrolled soldiers; all of these receive a certain military and general education.

The principal military school in Austria is established at Wiener Neustadt, and is said to contain 450 pupils, who enter it between the ages of 10 and 12. The course of study is nearly the same as that which is followed at the École d'Etat-major at Paris, and is said to include poetry and rhetoric, with the Latin, French, German, and Italian languages; international law, dancing, fencing, and horsemanship. The time of residence is eight years; and at the final examination, the pupils are selected, according to their characters and attainments, for the service of the line, the artillery, and the engineers. Those who are selected for the line immediately join some regiment with the rank of sous-lieutenant; and those who possess superior merit are transferred to the special schools of artillery and engineers, both of which are also established at Vienna.

At Olmutz there is a school of cadets, who, when they have completed the course of study, enter different corps, in which, subsequently, they become officers. A military academy exists at Josephstadt, in Bohemia, and one at Winkowcza; and a general system of military as well as civil education is provided throughout the colonies of the military frontier. The Austrian field ordnance corps of artillery constitutes a nursery for officers of that arm; and it consists of a body of men who are said to be thoroughly conversant with the mechanical duties of the profession.

A provisional school was formed at Brussels in 1831, for the army of Belgium; and, in 1837, the Royal Military Academy was founded for cadets who are to become officers of infantry and cavalry, as well as for those who are to hold commissions in the corps of artillery and engineers, and in the état-major. The courses of study are of two kinds, general and special; the former comprehends mathematics, mechanics, descriptive geometry, chemistry, astronomy, architecture, the history of the military art, and the belles lettres, and each pupil attends this course during two years. The special course comprehends the arts of fortification and artillery, with that of military constructions and tactics; this course also continues two years, during which time the students are required to perform practical exercises, to write memoirs, accompanied by plans, on military subjects. Two-thirds of the commissions for the Belgian army are granted to pupils who have passed examinations at the academy, the remaining third only being reserved for those officers who advance by seniority.

Almost every state forming the Germanic Confederation has provided military instruction for its people. Cadet schools have been formed at Cassel, Schwerin, Darmstadt, and Oldenberg; there is a school of cadets at Wurtemburg; and at Baden there is a military academy, together with a superior school for training officers. A military school has also been established at Thun, in Switzerland, for officers of artillery and engineers. In the kingdom of Bavaria there is a school for cadets, who are instructed in all the branches of the military service, and who, on leaving it, obtain the rank of second lieutenants. At Dresden there are two schools for officers of the infantry and cavalry, besides one for the engineers

engineers and artillery. In Holland there is a school for the engineers and artillery; this was originally at Delft; it was removed in 1808 to Breda, where it took the name of the Royal Military Academy, and it has since been transferred to Medenbleich; the number of cadets is said to be 308.

In Hanover the Cadeten Haus is an establishment very similar to that of the junior department in the Royal Military College in this country, and the Militair Schule is both a general and special school for officers of all arms. It is described by the late Captain Spearman as divided into four classes: 1st. A general class for all officers, except those of the Etat-major. In this class the course of instruction comprehends arithmetic, tactics of infantry, and of the three arms combined; war of posts, geometry, practical artillery, field fortification, reconnoitring, the construction and use of arms, military drawing and surveying, with military history. 2d. A cavalry class. In this the pupils are instructed in horsemanship, the knowledge of horses, and cavalry tactics. 3d. An engineer and artillery class. In this the course comprehends the higher branches of the mathematics, mechanics, the differential and integral calculus, natural philosophy, chemistry, gunnery, permanent fortification, engineering, the theory and construction of military bridges, with the attack and defence of fortified places.

During the summer months, or vacations, the students of these three classes return to their duty in their respective regiments or corps.

4th. The class for the Etat-major. This comprises the theory of surveying, war of outposts, military drawing, analytical geometry and plane trigonometry, tactics of the three arms combined, the art of war, spherical trigonometry, pontooning, the theory and construction of military bridges, artillery, field fortification, mechanics, the organization of armies, the differential and integral calculus, geodesy, and the English and French languages. The pupils of this class are also instructed in horsemanship.

During the summer months this class is employed in practical surveying with the theodolite and plane table, in reconnoitring and sketching ground, in forming plans of operation, and in studying and describing various theatres of war. The students continue at the institution during five terms, each extending from October to April; and, after the final examination, those who succeed are appointed to the corps d'Etat-major.

Sweden has a school at Carlsruhe, containing from 100 to 130 cadets for the military and naval service, and one at Marienberg for the artillery. In Norway there is a military school for officers of all arms. Denmark has an institution designated the Royal Military College, and another which is entitled the Royal Military Academy. In the first, cadets receive a general military education, which qualifies them for commissions in the infantry or cavalry; but students who are destined for the artillery, engineers, or état-major, go from thence to the Academy, where they receive special instruction for those branches of the service. No one is admitted as an officer in the Danish army who has not been educated at those seminaries. For the kingdom of Sardinia there is, at Turin, a military academy, which contains 200 pupils; and for the kingdom of the Two Sicilies, besides a school for young men as under-officers, there is a military college for the sons of officers and nobles, who are admitted between 11 and 16 years of age.

In 1797 there was founded at Madrid, for military instruction, a college consisting of a junior and a senior department. The former consisted at one time of 200 pupils, who were taught mathematics and military exercises; and in the latter, which was supplied by a selection of officers from every regiment in the Spanish service, instruction in the superior branches of military science was given. The officers remained two years at the college. There are schools for the artillery at Talavera, Barcelona, and Segovia; and there is a military as well as a naval academy at Cadiz; but all these institutions, except the naval academy, are said to have been of late much neglected by the Government.

A Royal Military School was established in Greece in 1828 by Count Capo d'Istrias, and in 1839 it consisted of 58 students, of whom 30 were educated at the expense of the Government. The cadets, who enter only after they have attained 12 years of age, are instructed in mathematics and mechanics, including bridge and road-making, also geography and chemistry, besides the Greek and French languages. After having completed their courses of study, the pupils receive commissions, those who have made the greatest progress being selected for the artillery and the corps of engineers.

Beyond the limits of Europe, the most important institution for the education of young men who are to hold commissions in the military service is the Military Academy at West Point, in the United States. This consists of 250 cadets, who are entirely supported at the expense of the Government, and who go through a course of study which occupies four years. During the two first years the principal subjects of instruction are mathematics and the French language. The students in these departments of education form several classes, which are subdivided into sections; and with respect to mathematics, they are distributed in the sections according to their progress, from the elements of geometry and algebra to the highest branches of the science: descriptive geometry and perspective are included in this part of the course. The course for the third year consists of topography, natural philosophy, and chemistry; and for the fourth year, engineering, mineralogy, and military tactics.

A considerable time is passed by the cadets during the last year in acquiring a practical knowledge of the duties of a soldier. Manœuvres of infantry and artillery are performed under the eye of the Professor of Tactics, who has the immediate military command of the cadets. The discipline of the class-room is strictly military, each section having its officer, who is bound to report every instance of irregularity; and thus the teachers are relieved from

Appendix, No. 2.

every care, except that of giving instruction. Examinations are held twice each year—once before a Board of Visitors, named by the Secretary of War; and the names of the four most distinguished cadets are annually published in the Army List of the United States. Every cadet who has passed through the four years' course, and has received his diploma, is entitled to a commission in the artillery, engineers, or the line, the most qualified cadets having the right of choice.

A military school has been formed by the Government of Brazil, and the course of education for each cadet is said to continue during four years. The essential points of military education are, however, much neglected, and the institution appears to be ill conducted.

It may not be uninteresting to remark, that at Constantinople the Galata Serai has been converted into a military seminary, and that Egypt itself has its military schools, which are under the direction of a Council of Instruction. There is a school for the cavalry at Gizeh, and for the infantry at Damietta, in the latter of which 200 students are taught mathematics and the use of arms. There is also a school for infantry at El Khanké for 400 Arabs, who are taught the use of arms and military discipline. A preparatory military school exists at Quasrel A'yny, in which 800 youths of the first families in the country are taught; and from these are selected 300 to form a school for artillery at Torrah. These last were instructed in mathematics, and the higher branches of artillery practice; but the school is said to be now nearly broken up. There are, however, eight schools, each containing about 100 students, who are taught engineering and general military duty.

French Corps of Etat-Major.

The Corps d'Etat-Major constitutes a permanent body of officers who are employed on the general staff of the army, with troops in the military divisions or governments, as chiefs, assistants, and as aides-de-camp.

When the general reorganization of the army took place after the events of 1815, the system, character, and composition of the general staff formed one of the principal subjects of deliberation. In those deliberations, as well as in some publications at that time, the general staff was characterized as "so deplorable, at least in its organization, that it was absolutely necessary either to re-create or re-compose it;" and on this account the Minister of War invited general officers of experience and talent to communicate their ideas to him concerning the manner in which it might appear to them that the object might be best accomplished.

All the authorities consulted upon the reorganization of the Etat-Major were of opinion, that no officer should be employed on the staff who had not been carefully instructed in the special duties of that service; and that the qualifications of the officer should be ascertained by examination in the manner recommended by General Thiébault in his memoir on "Les Quartiers Généraux et les Etats-Majors des Armées," which was published in the year 1800; but there was much difference of opinion and much discussion on the following points:—

1st. Whether the officers selected for staff service should be formed into a distinct, special, and permanent staff corps, or be borrowed, as it were, from other regiments for temporary purposes.

2d. Whether promotion should go in the corps or in the army at large, by successive transfers from the staff to the line, and from the line to the staff.

3d. Whether, or not, the corps should be composed of officers of all ranks.

4th. Whether, or not, aides-de-camp should form part of the corps.

5th. Whether a special college should be established for the instruction of young officers intended for staff service; or whether, by means of some alterations in the Artillery College at Metz, the students of the Etat-major might not be properly educated in that seminary.

In discussing the subjects of the first and second articles, it appears to have been admitted, that a numerous staff selected from regiments of the line would not fail to take from these a large proportion of their best officers; that taking such only as were capable of passing the prescribed examination, would create a distinction not flattering to the service of the line, and particularly discouraging to those officers who had no chance of procuring this double occupation. It was contended that officers qualified to the degree required for staff service, could only regard regimental duty as a step to the ulterior object of their ambition. Many, therefore, would serve in the line with carelessness, others with regret; and thus the main branch of the army, the infantry, would be seriously injured. It was further considered that it would be always at the commencement of a war, when it was most important to keep the regiments in the most effective state possible, that these hurtful effects would severely operate. It was argued that the establishment of a distinct special corps of staff officers would put an end (after the competition which had been excited at its formation had subsided) to such ambitions and contentions of interest; for, when each department should be made special, officers would follow their career regularly in their own line, unagitated by prospects of change. It was further asserted, that the projected establishment of a special staff corps would prevent the rapid promotions too frequently awarded to young staff officers selected,

selected, through favour or otherwise, by general officers. By such rapid advancement regimental officers are, in fact, more injured and more disgusted than they would be by the formation of the staff into a separate corps, in which no rapid rise could take place.

These considerations were judged conclusive; and, together with many other arguments which were submitted to the authorities, produced the formation of the Corps Spéciale d'Etat-major.

With respect to the third article, the affirmative was resolved on, as following necessarily from the former resolutions. Having pronounced against selecting officers from the line to serve occasionally on the staff in their actual rank, that decision negatived in principle the measure of promoting them by transfer to staff situations, and, consequently, it led to the adoption of the following resolution: That the officers of the staff should find their career of advancement in the corps or department for which they were specially instructed, and to which they were permanently attached. But it was pointedly recommended, and it has been enacted, that their promotion shall be subjected to the same rules and restrictions as the advancement of officers in any other corps: thus the promotion of staff officers cannot be more rapid than it may be in any other branch of the service. It has indeed been so much checked as to have given rise to considerable difficulty, and some dissatisfaction.

Many very curious facts were brought forward in discussing this third article; among these, was elicited a statement of the former condition of the French staff. According to a description given by General Thiébault, its different ranks were not in due subordination; the officers of the état-major at the time (1802) were taken from caprice, rather than selected, and were deficient in the special instruction which should qualify them for the appointments; and at the same time the most distinguished staff officer quitted the service in disgust.

If these exposures tend to diminish our esteem for the officers in general of the French état-major, they cannot but heighten our opinion of the talents and qualifications of the principals. Yet this state of the staff is capable of being reconciled with the brilliant successes of the French arms. The plans of operations formed by the chiefs of the staff frequently succeeded on the first blow being struck, and, when this happened, the subordinates had only to fill up the details of execution, and had no opportunity of doing much harm; but when those plans did not at the first blow succeed, and when the unity of action was destroyed by unforeseen difficulties, or the vigorous opposition of the enemy, the task of carrying out the arrangements by the subordinates being ineffectually executed, greater confusion followed upon defeat in the French armies than in those of other nations.

In the discussions on the fourth article, it was objected that aides de camp had never been considered as officers of the general staff, but as attached to the general officers on their personal staff, with particular duties to discharge, which regarded those generals alone. The Committee, however, asserted that aides-de-camp ought not to have any private functions to discharge while on service; that, whether in the cabinet or in the field, the duties they have to perform are similar to those of other staff officers. In the cabinet aides de camp have to draw up, copy, and register letters and orders, which emanate from the general himself; while in the field they are, or ought to be, employed like other staff officers, in reconnoitring, in making sketches of ground, and reports upon its military character. On the field of battle they are the bearers of orders, in the execution of which it is often necessary to leave much to their discretion and judgment. They are employed to direct the formation and conduct the movements of troops in circumstances which require a knowledge of the tactics of the arm with which they are concerned.

It was admitted to be just that a general officer should be permitted to choose his aide de camp, but it is indispensable that he should choose well. The liberty of choice is a concession due to the situation, rank, and comfort of the general, but it is obligatory that the services of the aide-de-camp should be such as may promote the well-being of the army and the interests of the State.

The question forming the fourth article of discussion having been decided, the fifth alone remained to be considered. If it had been determined to send the students of the état-major to be instructed in the college at Metz, which was specially formed for officers of the artillery and engineers, that establishment must have, wholly or partially, undergone modifications in some of its branches of instruction, and considerable extension must have been made in others; this would, no doubt, have resulted in arrangements both inconvenient and complicated. If, on the other hand, it had been determined to send students for the staff to Metz, without making any modifications in the course of instruction, it would have followed that officers of the general staff must have been educated precisely as those of the artillery and engineers are educated. In this case, it was asked, "From whence are to come the students for the general staff? those from St. Cyr cannot be received at Metz, the pupils for which are chosen from the most distinguished students of the École Polytechnique, where the mathematical and physical sciences are carried to a far greater extent than can be necessary for officers of the staff." The sort of instruction required for these last being, therefore, special, and consisting of branches and degrees of study to which the course at no existing college was properly adapted, the committee were led to the adoption of the first part of the fifth article, that there should be established a special college for the état-major. Then came the question, "of what branches should the course of instruction consist, and how far should they be pursued?" the conclusion arrived at was, that the course should consist of geometry, algebra, trigonometry, descriptive geometry, chemistry, statics, geodesy, topography (including the practice of sketching ground, with instruments and by the eye), geography,

Appendix, No 2.

geography, astronomy, artillery, fortification and foreign languages. It was further decided that the young officers should be instructed practically in the regimental duties and manœuvres both of cavalry and infantry; and that they should be sent, after leaving the college, to do duty for a certain time with regiments of the line, the cavalry and artillery.

These discussions led to the formation of the corps d'état-major, now to be described. It will afford the illustrious personage at the head of our army great satisfaction to learn, that in debating the question of establishing a staff college, frequent reference was made to the senior department of the Royal Military College in this country as an excellent staff school in the special form in which it existed, first, at High Wycombe, and afterwards at Farnham, and which had been frequently visited by French and other officers and men of science, and also to the excellence of our staff; indeed, the arguments used in the discussions on the fifth article show that the French authorities have had their eyes upon our practice, and that they have even borrowed from it. But our staff school has had to encounter great difficulties, through the opposition of our economists, who ought to have reflected, that in proportion as a government is intolerant of a large military force during peace, it should encourage an institution which, at a very moderate expense, would retain in the exercise and pursuit of military science a number of officers of all ranks who have already entered the service. Upon the principle of economy, let any one calculate, as I have done, the great sums of money which it has cost the country to purchase the services of foreign officers, in consequence of the want, in our own people, of those scientific qualifications which we might effectually impart at home, if we do not ruin the establishments which we now possess for cultivating them. I proceed now to detail the institution of the permanent staff corps in France.

Conformably to the arguments and views which I have above stated, it was resolved, First, to revise the pretensions and services, and to ascertain the scientific qualifications of every officer actually serving in the état-major; to retain such superior officers as had filled with credit and advantage to the service the situations of chefs of the staff to divisions or corps-d'armée, or such as, having been educated at the colleges of artillery and engineers, had subsequently been employed on the staff, or in the actual command of troops of the line. Secondly, to retain no officer under the rank of chef-de-bataillon who did not pass an examination in mathematics and fortification, and who was not an expert military draughtsman.

Having thus selected for retention in the corps such staff officers as appeared properly qualified for the service, others were either distributed in regiments of the line, or in situations of employment in some of the military departments, and the rest were dismissed with pensions, or put on half-pay. The corps was then formed, and the numbers were completed according to the establishment, by selections of officers of all ranks from all arms, the captains, lieutenants, and sous-lieutenants who might be candidates, undergoing a strict examination of the same nature as that which had tried the pretensions of the officers of these ranks who were retained in the corps.

It was then enacted, that the promotion of permanent staff officers should go in the corps, and the vacancies be supplied by students who, after having completed a course of education and military exercises in the Military College of St. Cyr, might be chosen for staff service; to these elementary qualifications the same students were afterwards to add the higher branches of military knowledge which are necessary to form an accomplished staff-assistant; and it was for this purpose that the Ecole d'Etat-major was established. It was further enacted, that no officer should thenceforward enter the staff except such as passed through these establishments.

The peace establishment of the corps consisted, at first, of 8 Lieutenant-generals, 16 Major-generals, 30 Colonels, 30 Lieutenant-colonels, 90 Chefs de Bataillon, 270 Captains, and 125 Lieutenants.

But it was found that, even with this very extensive establishment, so many meritorious and well-qualified officers of the superior ranks were excluded, that 30 colonels de remplacement, seconded upon it, were subsequently added to the corps.

The students at this Ecole d'Application have the rank of sous-lieutenant, and their course of study, besides being repetitions of the branches of mathematical and physical science, fortification, &c., in which they had been previously educated at St. Cyr, comprehends those departments of civil and military knowledge which form the particular subject of instruction for the Etat-major: chemistry; the steam engine, with its application to warlike purposes; the manufacture of gunpowder; the construction and use of arms, both ancient and modern; the theory and construction of bridges, and the art of the pontonier; civil and military drawing; architecture; topography and geodesy; construction and repairs of roads; the art of war; tactics, special and combined; reconnoitring; castrametation; military history; the science of projectiles; practical artillery; astronomy; geography, physical, mathematical, and political; statistics; military administration and legislation; the English and German languages and literature; horsemanship, and the diseases of horses. The time of remaining at the école is two years.

When a student has passed his final examination at that institution, he is sent with the above rank, in quality of aide-major, first to a regiment of cavalry, with which he serves two years; he is then promoted to the rank of lieutenant, and sent to a regiment of infantry, in which he serves as aide-major also for two years.

In

In both the last-mentioned situations these élèves are employed, first in the company duties belonging to their rank; and, when perfect in these, they are instructed in the duties performed by adjutants, taking in turn weekly the duty of adjutant under the immediate orders of the chef de bataillon of the week. When the regiment is under arms, an élève aide-major, if not employed in doing the duty of adjutant, attends the colonel, and acts as his aide de camp.

The inspecting generals are particularly directed to examine these élèves at each inspection of the corps, in company's and adjutant's duties, in regimental manœuvres, and in their applications in great manœuvres of the line, and to report specially to the Minister at War on their qualifications.

No leave of absence is granted to élèves d'état-major until they have completed the term of four years' employment with regimental cavalry and infantry, and are reported qualified by the inspecting generals.

The succession to, and the supply of officers from L'Ecole d'Application, and consequently the number of students at that establishment are regulated so as always to keep 100 élèves aide-majors serving and studying in the cavalry and infantry. Those who have passed this period of study and probation, become eligible to enter on the duties of general staff officers; but, if there are no vacancies for them, they continue their services in the regiments with which they may have been acting, taking rank from this period as lieutenants in the état-major, or are sent in succession to do duty as aides-major with regiments of artillery and engineers for a certain time, for the purpose of studying practically with these corps.

The advancement in the corps d'état-major is regulated according to the mode prescribed by the general regulations of the army.

Officers of the corps d'état-major have rank by title corresponding only to that of their rank in the corps; but to give them greater influence in directing manœuvres, and in their other general duties, they command all regimental officers of equal rank.

The general officers d'état-major are employed in the high situations of chief of the staff to armies, or corps d'armées; and should there remain any general officers not so employed (as in time of peace), they are placed at the disposal of the Minister at War, to be employed, in preference, in ordinary commands suited to their rank, in the several districts.

The colonels of the corps d'état-major are employed as chiefs of the staff, or as assistants to the general officers so employed. Colonels may also be employed as chief aides de camps to field marshals, or to general officers commanding corps d'armée.

One colonel or lieutenant-colonel, one chef de bataillon, two captains, and two lieutenants, are attached to each of the 21 military divisions in time of peace; and, in case of war, the general staff for corps d'armées, being collected for service, is formed from the different establishments of the divisional staff.

Marshals not employed are entitled to retain two aides de camp from the corps d'état-major, viz., one having the rank of chef de bataillon and one that of captain.

General officers of artillery and engineers take their aides de camp from their respective corps; but these aides de camp retain their regimental places, and do not participate in the advancement in the staff corps.

When a general officer is appointed to any employment, he is at liberty to select his aide de camp from among the unappropriated officers of the staff corps, on making application for them to the Minister at War, who appoints the officer so designated by a special letter of service, and all unappropriated officers of the corps are permitted to go on leave to their private residences till called for, retaining their *paie de disponibilité*, without allowances, during this period of unlimited leave.

Should there not be a sufficient number of unappropriated officers to meet the requisitions of general officers, these situations must be given, in preference, to the élèves aides-major serving with the different regiments.

A certain number of officers of the corps d'état-major are attached to the Depôt de la Guerre: these officers are employed in the departments of Military Memoires and History, and in the Topographical Departments, in conjunction with the Ingénieurs Géographes; and are under the direction of a general officer of the Corps d'Etat-major.

Some circumstances have arisen in the working of this system which have occasioned considerable disappointment and dissatisfaction in the Corps d'Etat-major, as well as some general inconvenience; and it was found that something must be done to remedy these difficulties. Promotion in the French army had been so rapid during the later period of the war, that vast numbers of officers had been brought forward to high rank in a short time, and consequently at nearly the same age; that most of those who had attained the rank of colonel, lieutenant-colonel, and chef de bataillon, and who had retained their health and activity, were men in the prime of life (from 30 to 40 years of age). The corps d'état-major was necessarily, therefore, composed of such officers in corresponding ranks. Now, in a body composed of 420 officers, most of them in the prime of life, with constitutions which had been severely tried in the fatigues of service, it might have been foreseen that vacancies by death would not be sufficient to provide for the succession upon which the number of students at the college, and the general advancement in the corps, had been calculated. There were, in fact, no old men in the corps; for the regulation with respect to age

Appendix, No. 2.

age excludes all who are at or approaching 55 years of age; and, consequently, there remained very little chance of promotion, except in the succession caused by filling up with officers of the corps the vacancies occasioned by transferring to the retired list such officers as might arrive thereafter at the age of superannuation. But the vacancies have not been so filled up; and the rank of general officers, in the Corps d'Etat-major, is now filled by men who have the greatest interest or merit; it does not, moreover, necessarily go by seniority, nor even in the corps. From this it followed that the stagnation in the promotion was so great that some alteration was required to procure fair advancement to officers in the junior ranks, who would otherwise fall far behind their first expectations. It was therefore proposed to do away with the rank of lieutenant in the Corps d'Etat-major; and that the students from the école, instead of entering the service of the staff at once, and being attached to regiments as aide-majors, should enter the service of the line as sous-lieutenants on quitting the establishment, and work their way through all the subordinate gradations of rank as regimental officers, according to the regulations. When they have arrived at the rank of captains, they may compete with other captains of the army in strict examinations for election in the Corps d'Etat-major; which, accordingly, would thenceforward receive no officer under that rank; the promotion then to go on in the corps. According to this projected alteration, general officers were to be permitted to select their aides de camp from regiments of the line, but making their selections from among such as have passed their examination at the Ecole d'Application. But these alterations were not found to answer, and the Corps d'Etat-major now consists* of colonels, lieutenant-colonels, chefs d'escadron, captains and lieutenants, as stated in page 9 of this paper, increased in numbers, according to the exigencies of service, but having no general officers attached permanently to the corps; the situation of chief of the staff of an army, or of a corps d'armée, being filled from the effective list of general officers, by those best qualified for those most important duties.

(p. 186.)

The Corps of Ingénieurs Géographes was created specially for the performance of the various duties involved in topographical operations at a time when there was no other staff qualified to execute them; but now those duties form indispensable parts of the education of staff assistants; it is, therefore, in contemplation to consolidate the Corps of Ingénieurs Géographes with the Corps d'Etat-major, which will hereafter be charged with all the higher branches of geodetical operations, which involve astronomical observations and calculations, as well as the minor operations of trigonometrical surveying, and the practice of making military sketches of ground.

Appendix, No. 3.

Appendix, No. 3.

LETTER from Lieutenant-Colonel *Adams*, dated 10 May.

Lieut.-Colonel Adams presents his compliments to Sir Francis Baring, and would be glad that the Committee should be cognisant of his reasons for insisting that all the Quarter-master-General's Staff and the Adjutant-General's Staff should pass through both departments of the Royal Military College, and that all others of the staff should have, at least, passed through one department, commencing at an age not more advanced than 25. This would bring them to 27 on quitting the senior department, and on being merely enrolled in the staff corps. A staff officer would probably be nearly 30 before he was actually placed on the staff in his turn.

The reason usually alleged by officers of high rank and distinction in our service, and also by civilians, against a rule being made, "that all staff officers shall necessarily pass through the senior department of the Royal Military College," is: "Experience has proved that many good staff officers have been and are to be found without doing so, and many good men would be excluded by making such a stringent rule."

This objection, if well founded, would tend to the exclusion of any improvement whatever, not only in classes of men but in material; for example: "We have always found our muskets extremely good; we have beaten our enemies with these 'good' muskets; if you insist upon having Minié rifles you exclude the use of these 'good' old muskets." The fallacy of the argument lies in the use of the word "good." A "good" man cannot (justly) be said to have been excluded, if you can easily procure a "better" man to fill the "good" man's office. A high professional education does not exclude the possession of any physical quality; a very clever and highly educated man is as likely to be a brave dashing officer as an ignorant man; his constitution and endurance of fatigue are likely to be equal, at the least, to those of an uneducated man, and also his horsemanship.

If

* Vauchelle, Cours d'Administration Militaire. Paris, 1854.

If, then, you exact from all candidates for the staff a very high degree of professional education (including all the physical exercises, riding, &c. (deemed necessary), not only tested by a stringent incoming and outgoing examination, but by a residence of one and a half or two years under the strict surveillance of first-rate military authorities at a military college, it is manifest that there must be much less chance of error in the formation of an efficient staff than if the selection is left to any human being to be made from candidates whose education has not been so tested and scrutinised for one and a half or two years; to maintain the contrary, is to persist that nothing plus 3 is as much as 3 plus 3. To such as are not affected by logical or mathematical reasoning, I would say, that if Republican France, Imperial France, Monarchical France and Imperial France again, besides Prussia, have persisted, and still persist, in requiring the highest degree of professional education, through a military school, in staff officers, and that we do not, whilst all other countries have imitated, or have begun to imitate them, then we must be wrong.

A man may be a good general though he cannot read or write, but he cannot be an efficient staff officer under such circumstances; the good but (educationally) ignorant general requires, more than another, well-educated staff officers; the natural genius of the general originates a certain operation; he calls upon his quartermaster-general's staff to make all the calculations and surveys, &c., requisite to carry into execution his conception.

Nearly all the old Imperial French marshals were uneducated men; Prince Blucher was by no means a clever man; but they, and he in particular, had highly educated and very clever staff officers; in the case of the Prussian general, his staff not only carried out but originated all his defensive or retiring movements, and many of the offensive operations.

The same was the case in the Russian campaign of 1812; the Russian generals-in-chief were selected for other reasons than their ability; but their chief staff were highly educated and clever men. This enabled them to retreat 500 miles before an army double their strength, without having a single regiment broken, or experiencing any signal defeat.

In the time of James 2, gentlemen or noblemen were appointed at once to command men-of-war, although they had never received a nautical education, nor had ever sailed in a ship; and such appointments were defended then on precisely the same grounds as the appointment of an unprofessionally educated man to the staff is defended now, viz.: "The ship could be sailed by deputy (the appointment of an educated seaman called, even now, 'the master'); and experience proved that many good men could be found who had not received a nautical education." Such an argument applied to the appointment of a civilian to command a ship of war would, at the present time, be considered absurd, yet the same argument is brought forward to defend the appointment of an unprofessionally educated officer to the Quartermaster General's Staff.

Royal Military College,
10 May.

W. H. Adams,
Lieut.-Col.

SPECIMEN of the Work of in GEOGRAPHY.

1. Where is Cawnpore?	1.
2. What are the chief towns of Nova Scotia?	2.
3. Where is Toronto?	3.
4. Where is the Mozambique Channel?	4.
5. What are the chief rivers of Germany?	5.
6. Where is Prague?	6.
7. Where is Naas?	7.
8. Where are the Carpathian Mountains?	8.
9. Where is Sarawak?	9.
10. Where is Walmer?	10.
11. Where is Adelaide?	11.
12. Where is Harwich?	12.

Appendix, No. 4.

SPECIMEN of the Work of in HISTORY.

Give some account of--

1. The naval supremacy of Athens, and the date.	1.
2. The Lamian War.	2.
3. The first Samnite War, and the date.	3.
4. Minucius.	4.
5. The Gabinian Law.	5.
6. The Emperor Valens.	6.
7. Edwy the Fair.	7.
8. The reign of Henry 4, and the date.	8.
9. The reign of Charles 1 before the Rebellion.	9.
10. The Regent Murray.	10.
11. John Hampden.	11.
12. The Act of Settlement, and the date.	12.
13. The Emperor Charles 5.	13.
14. The Edict of Nantes.	14.
15. The Peace of Amiens.	15.

SPECIMEN of the Work of in HISTORY.

Give some account of—

1. Crœsus, King of Lydia.	1.
2. The Battle of Leuctra, and the date.	2.
3. The Latin War.	3.
4. The Battle of Vercellæ, and the date.	4.
5. Lucullus.	5.
6. Stilicho and the Battle of Florence.	6.
7. Edward the Confessor.	7.
8. The reign of Edward 2, and the date.	8.
9. The Six Articles, or "Bloody Bill."	9.
10. The Peace of Troyes, and the date.	10.
11. The Triennial Bill.	11.
12. Robert Harley.	12.
13. Adrian 4.	13.
14. Philip 2, of Spain.	14.
15. The Battle of Jena, and its results.	15.

Appendix, No. 4.

OUTLINE of a System of MILITARY EDUCATION, in reference to Questions 807 and 844, by Major *Addison*. Appendix, No. 4.

JUNIOR DEPARTMENT.

1. ON the supposition that the student would enter at 16, the first question is as to the nature of the preliminary examination.

The object of such an examination would rather seem to be to ascertain that the candidate possessed the average information of boys of his age at the first public schools, than to insist on any peculiar acquirements regarded as preparatory to his subsequent studies at the Royal Military College.

Indeed the Latin course would at once lead to the candidates being previously withdrawn from the public schools, and placed at some private establishment for the purpose of "cramming." The same injurious result would equally be arrived at by naming particular books in which the candidates should be examined. The public schools could not accommodate their classes to the requirements of the comparatively few who would leave them for the Royal Military College, and private persons would at once undertake the instruction which the public colleges had declined. For example, the public schools could not engage to prepare a boy in Cæsar, or any other named author, which would interfere with their general course of education.

2. For the reasons above stated, it would seem advisable to lay down a wide basis of subjects, proficiency in any two or three of which should be reckoned a sufficient qualification, in preference to any more fixed standard of attainment. The subjects would be sufficiently extended to give a fair chance of admission as well to the boys who had been educated in private institutions, or on the Continent, as to those furnished by the public schools; thus the candidate might have the option of passing in any two of the following subjects:

Latin, so as to translate not very difficult passages, and also render English into Latin.

Mathematics, to the extent of three or four books of Euclid, simple equations, and arithmetic.

French, to translate into English, and also English into French.

History and geography, ancient or modern, though necessarily, at the age of the candidates, in an elementary form.

3. It is proposed in my evidence to give a prominent place in the instruction to military history. By this is meant the study in detail of some of the most celebrated campaigns and sieges, selected as affording the clearest instruction. Military geography, a most important subject, would form a necessary part, collaterally, of this study. To English boys, the Wars of Marlborough and of Wellington would have a peculiar interest, and would have probably no slight effect on their military spirit. The earlier campaigns of Napoleon, those of 1796, in Italy, which were wonders of strategical combination and energy, would scarcely be less exciting. Mountain warfare, marches across rivers, swamps, or deserts, and all the modes by which genius and enterprize have overcome the greatest physical difficulties, would have an interest for the youthful mind which could hardly fail to elevate; while the instruction itself would call forth the highest powers of inductive reasoning, in deducing the true principles of war from a large basis of historical data, clear of the technicalities with which mere tactical writers have invested it.

In teaching military history, I would recommend the student's reading to be out of school-hours, and the instruction professional, with questions, invariably, at the end of each lecture.

4. Fortification would be taught as at present, with no more plan-drawing, however, than is necessary to enable the student to understand and illustrate his subject.

5. Military drawing, preparatory to surveying in the field, would be an important subject. But it is questionable whether an elaborate finish to the drawings should be encouraged, except in those who show a decided taste and talent for it.

6. In French, conversation should be principally aimed at, however difficult to attain with English boys. Military works in French might be read in the latter part of the course.

The study of German would also be strongly encouraged.

Appendix, No. 4.

7. Military surveying with the compass, not the plane table, which is inapplicable to the field, and the production of rapid sketches, would be one of the principal employments out of doors.

8. In Mathematics—Euclid, mensuration, and plane trigonometry, with quadratic equations in algebra, should be required. But it is very questionable whether a cadet should finally fail in obtaining his commission for deficiency in mathematics. The study should be considered as of very high importance, but not, I think, of absolute necessity.

9. Instruction in the principles of the Minié rifle, with a school of practice on the grounds, might be introduced. The construction of field-works, sapping, pontooning, and riding instruction, would be as at present.

Senior Department.

1. No officer should be eligible to pass the preparatory examination for the senior department until he has completed three years' regimental duty, clear of leaves of absence.

2. The examination for entrance might embrace the followiug subjects:—

Euclid, the first six, and 11th and 12th Books, as read at present at the senior department.

Arithmetic, algebra, and the higher mathematics, or not, at the option of the candidate.

In regimental matters, the whole interior economy, the evolutions, and discipline of a regiment: the Mutiny Act, Articles of War, and practice of courts-martial.

French, German, military history, and geography, or any other military subject, might be at the option of the candidate to take up for examination, or not.

3. While at the college the student would read up, if not already passed in at the preliminary examination.

Trigonometry, including problems of heights and distances; military history, comprising the accounts of three or four campaigns; military geography, showing the principal strategical features of Europe, and of India; military drawing and sketching in the field, making rapid, but accurate sketching the principal aim; reconnoissance of positions and reports of country; fortification, as developed in existing fortresses, rather than book systems, and combined with the study of sieges and military history generally; strategy and tactics, also as deduced from military history; French, or German, with ability to converse, as the principal object.

4. An officer who could pass his examination on these subjects without going through the college, should equally receive the college's certificate.

5. The final examination should divide the students into three classes, as at present, the first being reserved for the highest degree of merit, and not otherwise conferred.

6. When the theoretical course is completed, the candidate should be attached successively to the various arms, infantry or cavalry, artillery, &c., in which he has not previously served, to learn the general working, not the minutiæ, of those arms.

7. Confidential certificates would be required—

1st. From the officer commanding the regiment to which the student belongs, stating his ability for ordinary military duties.

2d. From the officer commanding at the Military College, giving a very minute report of character, conduct, and ability; and specifying any particular direction the talent of the student may seem to take.

3d, 4th, and 5th. From the officers commanding the cavalry (if the student be an infantry officer), artillery, and engineers, to which he would be temporarily attached, stating his practical ability, and comprehension of the duties and working of those arms.

The officer who should obtain the highest testimonials from each of these five sources, with a first-class theoretical examination, could hardly fail of being an excellent staff officer, but for one quality, in which, after all, he may be wanting, and which education can scarcely convey—common sense.

(signed) *J. E. Addison*, Major.

London, 25 May 1855.

Appendix, No. 5.

LETTER from the Right Hon. *Sidney Herbert* to General Viscount *Hardinge*, G.C.B., on MILITARY EDUCATION.

My Lord, War Office, January 1854.

IN the year 1849 the Duke of Wellington took up the question of military education, as applied to officers, and laid down two principles:

1st. That no one should receive a commission, unless he should prove on examination to be possessed of good average abilities, and to have received the education of a gentleman.

2d. That no ensign or cornet should be promoted to a lieutenancy, nor lieutenant to a captaincy, until he had satisfied a competent tribunal of his professional and general acquirements and fitness.

A machinery was established to carry out the first proposition, and no candidate for a commission obtains one without passing a previous examination.

Whether the machinery is a good one is very doubtful: my own belief is, that the examination is too technical, too limited, and within its limits too severe. It does not test the boy's general education, nor his habits of mind; but he crams up a few books which happen to be in use at Sandhurst, and by his familiarity with these, he is entirely judged. So completely is this recognized, that the parents of boys intended for the army, as soon as they receive the announcement that their sons will have a commission at a certain date, forthwith remove them from the school, where they may be receiving an excellent education, both as to intellect and character, and send them to a class of men known by the name of "coaches," who undertake to cram them in the text books required for the examination at Sandhurst, but who, in some cases, do not even profess to superintend their general or moral conduct.

No attempt, however, has yet been made to carry out the second portion, and the most important portion, of the Duke's plan. No tribunal has been composed, no examiners named, no means of instruction given, nor any course of study even recommended.

It appears to me that a board of examiners might be appointed, to meet at specified periods, at head quarters, and who might conduct not only the examination for promotion, but the first examination for commissions likewise. From the engineers and the army it would not, I think, be difficult to select fit and competent men. At any rate, they ought not to be connected with Sandhurst, or conduct their examinations upon the assumption that the course used, or the formulas received at any particular place of instruction, are the only course, or the only formulas, which can be recognized.

This Board might meet, say six times a year, either in London alone, or in London, Dublin, and Edinburgh, and examine candidates for commissions, both *vivâ voce* and on paper (so as to give to all as fair a chance as possible), in history, sacred and profane, geography, the elements of geometry, Latin, French, or any other foreign language a boy may know, English, writing, and grammar, so as to establish that the candidate has a fair familiarity for his years with these subjects.

Having obtained his commission as ensign or cornet, we ought to provide him with means and opportunities of further study, in order to acquire a good knowledge of the theory of his profession.

Here, then, will arise necessarily a considerable difficulty, owing to the dispersion of our troops all over the world, and their want of concentration at fixed points at home, as well as abroad, which must give very unequal opportunities of study to different officers; and though the concentration of the troops which your Lordship is now gradually effecting, will in some degree diminish the difficulty, yet we cannot get over it entirely without some expense and some inconvenience to the service, against which must be set the advantage of having officers well acquainted with the scientific portion of their profession, and more accurately instructed in its ordinary duties, and who will not have adopted the army merely as an amusement for a few years.

I think that at the head quarters of every general's command a military instructor might be stationed, say with the rank of captain: masters, a class-room, a library of reference, would have to be provided for them at the public expense: and if the same text-books were selected for all these military schools, the officer, on being removed from one station to another, would resume his studies as if they had never been interrupted.

Those subalterns who are at head quarters could, of course, avail themselves of these facilities without disturbing their regimental duties; but those at out-stations, one-fourth might be spared at a time to repair to head quarters for the purpose of study and preparation for examination before promotion.

Appendix, No. 5.

Attendance, of course, would not be compulsory, though the ultimate examination would be so; but leave would be granted in the proportion I have mentioned, or any other which may be thought better, for the purpose of attending.

The course would consist of two terms; one for ensigns, candidates for lieutenancies, and a second for lieutenants, candidates for captaincies.

They would pay a fee for the use of the library, and the advantage of the instruction they obtain; which fees would go towards the expenditure incurred for the maintenance of this machinery.

The course for the ensign ought not to be too high. A fair progress in mathematics, French or German, geography, especially the military geography of Europe, with some knowledge of the theory of field fortification, plan drawing and surveying, should qualify him for a lieutenancy, accompanied, of course, by a practical acquaintance with the duties of a regimental orderly officer, the command of a guard, &c. &c. &c.; nor should he be allowed to attend the district military school at all, until he has been dismissed from drill, and has satisfied his commanding officer of his competence as to putting a company through manual and platoon exercise, &c. &c. The same rule will, of course, apply *mutatis mutandis* to cavalry officers.

The course for a captaincy would be of a higher character, including military history and strategy, military law, the practice of courts-martial, geometry, mensuration, field and permanent fortification, out-post duty, attack and defence of military posts, gunnery, surveying, bridge-making, &c. &c. For the purpose of subsequently facilitating the pursuit of higher and more scientific study, some changes might be made in the senior department at Sandhurst.

The examination clearly, for obvious reasons, should not be entrusted to the instructors; but the same Board that examines for first commissions, should conduct the subsequent examinations. The examinations, if conducted on paper, would be applicable to all stations, abroad, as well as at home.

It might be thus effected: once a year, or once in six months, officers, whether studying under the military instructor or not, might be invited to send in their names as candidates for examination, through the commanding officers to the general commanding the district, who would report the number to the Commander-in-chief.

The Examining Board will be informed of the numbers of candidates in each district, and shall prepare and transmit to the general in command a corresponding number of papers, containing questions on each subject. These questions shall be handed over to the military instructor, who will at once assemble the candidates, and set them to work, without book or assistance, or communication of any kind, to answer the questions then and there in writing, in his presence. This will be continued day by day, till all the questions have been submitted to and answered well or ill by the candidates, who will affix to their papers a motto or cypher. The answers so marked will be sent to the Board in London. The key to these cyphers will be sent under a separate cover to the Commander-in-chief, or the Secretary-at-War, and will only be opened when the answers shall have been examined, and numbers or marks having been given to each in proportion to the proficiency shown by his answers on each subject: the successful cyphers shall be then announced. The Commander-in-chief, or the Secretary-at-War, will then publicly open the keys, and ascertain what names correspond with the papers of answers which have succeeded or failed.

Those who have obtained very high numbers, should be noted for staff or other appointments, subject, perhaps, to a subsequent course in the senior department at Sandhurst.

To carry out this plan fully, we should want, say nine districts, in which a military instructor should be placed.

For the London District - - - -	Chatham.
„ Northern and Midland - -	York or Manchester.
„ Southern, including the Channel Islands - - - - -	Portsmouth.
„ Western - - - - -	Plymouth.
„ Scotland - - - - -	Edinburgh.
„ Dublin - - - - -	Dublin.
„ Kilkenny, Cork, and Limerick -	Either Kilkenny, Cork, or Limerick.
„ Belfast - - - - -	Belfast.
„ South Wales - - - -	Bristol.

Kilkenny, Cork, and Limerick, if thought too large to be joined together, might be divided into two.

The attendance should not be compulsory. Great inducements might be held out by reserving appointments on the staff to those who distinguished themselves: none else should be admitted to the senior department at Sandhurst, which might thus become what the Ecole d'Etat-Major is in France.

There is much detail which I omit, and which must be the subject of future arrangement, if your Lordship approves of the outline of this plan.

The

The military instructors might require assistance for foreign languages.

This would not be difficult to obtain.

The expense of the whole plan no doubt would be serious. The Examining Board would consist of, say three members, whose salaries and lodging money could not together cost less than 2,000*l.* a year; nor could we give to the military instructor less than 400*l.* a year in addition to his half-pay, which, with nine instructors for Great Britain and Ireland, will cost 3,600*l.*; making a total of 5,600*l.*; add ultimately eight abroad, and you would not do the whole much under 9,000*l.* a year. I could turn these gentlemen to account likewise as inspectors of regimental schools, which will soon be too numerous to be inspected by one man. Those abroad are not now inspected at all.

This is the general outline of the plan, which will require to be filled up with much detail. Your Lordship will observe I have not said one word as to the advantage of our having our officers properly instructed, and possessing sound professional knowledge: I have assumed that to be admitted, and that the principle has been conclusively laid down by the Duke of Wellington.

Indeed the popular argument against examination, and against scientific professional instruction in the army, founded as they have been on an entire misconception of the object, and of the mode of carrying it out, have ceased to have any influence on the public mind. It is not intended to convert the officers of the army into pedants or book-worms, still less to substitute a different class of mere learned recluses, and the like, for the handy, active and daring men by whom the British army is now officered. That a very scientific man may make a very bad officer, no one denies; and that very many uninstructed men may, and do often, make efficient and trustworthy regimental officers, is also true; but the scientific man fails, not because he is scientific, but because he is wanting in other qualities which are still more necessary to constitute an effective soldier, and it is not shown that the uninstructed officer, who is efficient in other respects, would be less decided, ready, and active, if he were acquainted with the reasons upon which he is really acting, and his resources were strengthened by a knowledge of what has been, and can be done on any given emergency.

It must be shown that the officers of artillery and engineers are unfit for their duties in the field, if it is to be maintained that instructed officers in the line would be unfit for military purposes.

No change would therefore be made in the *personnel* of the officers of the army by the system contemplated by the Duke of Wellington for making, in time of peace, a certain acquaintance with the theory, as well as the practice, of the profession a *sine quâ non* proposition. In war, obviously no test can be so good as that of proved efficiency in the field.

Care ought to be taken not to place the standard of examination too high at first; it can always be raised subsequently, if necessary. The course of study, no doubt, would on experience be considerably varied and modified before the standard shall be ultimately fixed. No doubt there will be some difficulty in introducing the system at first, and much allowance must be made in the earlier stages.

As I before stated, this is but an outline, and much care and time must be bestowed upon the elaboration of its details before any practical commencement can be made. But if the general principle meets, as I hope it will, with your Lordship's approval, I propose at once to request the sanction of the Treasury to take a sum on account which will enable us, in the course of the next financial year, to make a practical commencement. I would propose to ask for 4,000 *l.* or 5,000 *l.* for this purpose.

Ample time would thus be given to arrange all the details necessary to insure the well-working of the scheme.

I would be glad, as the time for closing the Estimates is at hand, to have your Lordship's opinion on the subject as soon as can conveniently be given.

I have, &c.
(signed) *Sidney Herbert.*

ANALYSIS OF INDEX.

ALPHABETICAL and CLASSIFIED LIST of the PRINCIPAL HEADINGS in the following INDEX, with the Paging at which the same may be found.

	PAGE.
Accommodation	199
Imposition Studies	216
Number of Cadets	219
Admission of Cadets	202
Age of Admission	202
Examinations, I. 1	210
Senior Department, 2	225
AGE OF ADMISSION:	
1. *Junior Department*	202
2. *Senior Department*	202
Addiscombe	201
Registration	224
Artillery	203
Belgium	203
Certificates	204
Chaplain	205
Commissions	206
Direct Commissions	207
Cost of Establishment	207
Direct Commissions	207
Commissions	206
Education	209
Examinations	210
Discipline	207
Fagging	212
Education	209
Belgium	203
Classical Education	206
Cramming	207
Examinations	210
French Language	213
Garrison Towns and Foreign Stations	213
Geology	213
Geography	213
German Language	214
History	215
Infantry Instruction	216
Junior Department	217
Latin	217
Mathematics	218
Military History	218
Orphans	220
Practical Instruction	221
Public Schools	223
Sapping and Mining	224
Senior Department, 4	225

Education—continued.	PAGE.
Theoretical Instruction	228
Trigonometry	228
Etat Major (France)	210
EXAMINATIONS:	
I. Junior Department	210
1. *Entrance Examination*	210
2. *Examination in Steps*	211
3. *Final Examination*	211
II. Senior Department	211
III. Direct Commissions	211
Algebra	203
Arithmetic	203
Books	204
Cramming	207
Dictation	207
Education	209
Examiners	212
Failures	212
Fortification	213
French Language	213
Geography	213
German Language	214
History	215
Junior Department	217
Latin	217
Mathematics	218
Probationary Examination	223
Senior Department, 4	225
Tasks	228
Trigonometry	228
Examiners	212
Failures	212
Dictation	207
Geography	213
History	215
Fortification	213
Garrison Towns and Foreign Stations	213
France	213
Etat Major	210
French Language	213
Garrison Towns and Foreign Stations	213
Governor	214
Gratuitous Class	214
Orphans	220
History	215
Hallam's History	214
Military History	218

PAGE

Income and Expenditure - 216
Junior Department - 217
Accommodation - 199
Admission of Cadets - 202
Age of Admission, 1 - 202
Belgium - 203
Certificates (Junior Department) - 205
Education - 209
Examinations, I. - 210
Examiners - 212
Foundation - 213
Mathematics - 218
Period of Study - 220
Professors - 221
Public Schools - 223
Separation of Departments - 227
Latin - 217
Lieutenant-Governor - 218
Major and Superintendent of Studies - 218
Mathematics - 218
Military History - 218
History - 215
Peninsular War - 220
Military Science - 219
Number of Cadets - 219
Accommodation - 199
Officers of the Line - 219
Education - 209
Garrison Towns and Foreign Stations - 213
Lieutenant-Colonels of Regiments - 217
Messes of Regiments - 218
Promotion of Officers - 221
Senior Department - 225
Orphans - 220
First Class - 212
Foundation - 213
Gratuitous Class - 214
Officers of the Line - 219
Outfit of Orphans - 220
Pocket Money - 221
Self Support - 225
Parliamentary Grants - 220
Period of Study - 220
Professors - 221
Examiners - 212
Salaries &c. - 224
Staff of College - 227
Public Schools - 223
Education - 209

PAGE.

Salaries, &c. - 224
Chaplain - 205
Governor - 214
Lieutenant-Governor - 218
Secretary - 225
Sapping and Mining - 224
Secretary - 225
Self Support - 225

Senior Department:
1. *Date and Origin of Establishment* - 225
2. *Admission* - 225
3. *Number of Students* - 225
4. *Course of Instruction; Amendments Suggested* - 225
5. *Staff for imparting Instruction* - 226
6. *Staff Appointments given, or to be given to Officers passing through the Department* - 226
7. *Parliamentary Aid recommended* - 226

Accommodation - 199
Age of Admission, 2 - 202
Aides-de-Camp - 203
Aldershott - 203
Belgium - 203
Cavalry Instruction - 204
Certificates (Senior Department) - 204
Chatham - 205
Etat Major (France) - 210
Examinations, II. - 211
Examiners - 212
Horsemanship - 215
Land Transport Corps - 217
Married Officers - 218
Military Science - 219
Napier, Sir Charles (the late) - 219
Narrien, Mr. - 219
Period of Study - 220
Professors - 221
Separation of Departments - 227
Staff Officers - 227

Staff Officers:
1. *Generally, as to System and Qualifications* 227
2. *Special Staff Corps* - 228
3. *Staff in the Crimea* - 228

Belgium - 203
Bridges - 204
Etat Major (France) - 210
Examinations, II. - 211
Indian Army - 216
Senior Department - 225
Subscriptions - 228

I N D E X.

[*N. B.*—In this Index the Numerals following *Rep. p.* refer to the Paging of the Report, the Figures following the Names of the Witnesses to the Questions of the Evidence, and those following *App. p.* to the Paging of the Appendix.]

A.

ACCOMMODATION. Facility at present for the reception altogether of about 270 cadets; explanation on this point, there having been at one time as many as 361, *Prosser* 60–72——Objection to the cadets being lodged in the professors' houses, *ib.* 223——There are at present 180 cadets, there being accommodation for about eighty more, *Adams* 1137, 1138. 1147——Accommodation available for 270 cadets, *Sir H. Douglas* 2209.

There is no accommodation at the college for increasing the senior department, *Adams* 1261.——*See* also *Imposition Studies.* *Number of Cadets.*

Accounts. An annual debtor and creditor account is prepared, up to the 31st of March, for the Secretary of War, *Houndle* 564–566——Duty of the Paymaster to attend to the detail of the accounts, *ib.* 567, 568——Requisition by three Commissioners upon which issues of money are made at the bank for the quarterly service of the college, *ib.* 569. 572——The accounts are made up quarterly, and sent to the War Office for examination, *Cunliffe* 1370.

Adams, Lieutenant-Colonel. (Analysis of his Evidence.)—Has been for twelve years Professor of Military Science at the college, 978, 979——Was educated both in the junior and senior departments, and obtained the higher certificate in each, 980–984. 1009——Service seen by witness, 983. 985, 986——Recommendation that the age for admission to Sandhurst be fourteen, 987. 1213. 1330, 1331——By entering at fourteen a stay of from three to four years would be required, 988——Injudicious relaxation hitherto of the entrance examination, 990–995. 1008. 1153, 1154. 1303——Suggestions relative to the branches of study to be required for examination on entrance, 990. 998–1006——Expediency of excluding persons (now admitted) with defects of speech or other physical defects, 990–997. 1007, 1008.

Uselessness of a knowledge of Latin, 999, 1000. 1032–1036——Witness has nothing to do with the final examination of cadets, 1001–1003. 1302. 1315——Greater aptitude, as officers, of boys educated at Sandhurst than of those educated at the public schools, 1010——Age of admission, and length of stay at St. Cyr and the Polytechnic, 1011——Respects wherein the system of education at Sandhurst differs from, and is superior to, the system at public schools, 1012–1017——At Sandhurst, boys entering at fourteen or fifteen alike remain till they are eighteen years old, 1017. 1060——In the final examination there are six branches of study, three of which are imperative, 1018, 1019.

Advantage if the art of attack were an imperative part of the final examination, 1020–1023——Detriment from requiring a study of the higher branches of mathematics; suggestions hereon, 1024, 1025——Inability of a class of about twenty-five boys being properly attended to by one professor in two hours, 1026, 1027——Practice relative to the French classes, 1028, 1029——The present minimum age for admission is thirteen, 1030——Nature of the study in Latin; it is not often chosen for the final examination, 1033, 1034. 1044–1051——Advantage of a slight knowledge of printing, mere writing being often nearly illegible, 1037–1041.

Practice as to the use of vertical lines and horizontal lines in sketching, 1042, 1043——Suggestions with regard to an increase in the number of professors, 1051–1055——Another professor besides witness teaches fortification, 1056–1059——Attention paid to the lower branches of arithmetic, 1061, 1062. 1064——There is no teaching of any system of book-keeping, 1062–1065——Objection to any branch of the final examination being optional on the cadet, 1066, 1067. 1303——Suggestions with a view to the amendment of the final examination, 1068 *et seq.* 1304, 1305.

Report, 1855—*continued.*

Adams, Lieutenant-Colonel. (Analysis of his Evidence)—*continued.*

Considerations relative to the teaching of military history, 1071–1081——Necessity, at present, of a knowledge of historical dates, 1072, 1073——Recommendation in order to obviate the conduct of the examinations, in the senior as well as the junior department, by the college professors, 1087, 1088. 1254, 1255——Propriety of abolishing the system of steps; for this purpose the final examination should comprise all the branches of study of each cadet, and a Lieutenant-governor's examination half-yearly should be substituted for the present examination in steps, 1089–1096. 1120, 1121——Nature of the examination in horsemanship, 1097.

Necessity, at present, of the office of Governor; advantage of his being a person of high standing, 1098, 1099. 1101, 1102. 1109–1114——Respects in which the self-supporting character of the college interferes with the discipline and the proper carrying on of the studies, 1099, 1100. 1125–1128——Necessity of the office of Lieutenant-governor, 1101. 1103, 1104——No necessity whatever for the office of major and superintendent of studies, 1103, 1104. 1301——Separate duties of the Governor, 1104.

Punishments to which the cadets are subjected, 1105, 1106——Reference to the rooms taken up by the cadets in doing imposition studies, 1107, 1108——Prejudice against the college on account of classical education not being mainly taught, 1110——Great majority of officers in the army who have received a classical education, 1111, 1112——The cadets do not as a matter of course get their commissions, but are, under any circumstances, obliged to undergo an examination before obtaining their commissions, 1115–1119. 1221——Boys should not remain under the same professors in the same branch, 1122 1124.

Duties of the cadet non-commissioned officers, 1129. 1140, 1141——Duties of the staff sergeants; objection to a transfer of the same to the cadet under officers on the monitorial system, 1130–1136. 1140–1145——There are at present 180 cadets, there being accommodation available for about eighty more, 1137, 1138. 1147——Suggestions relative to the admission of a gratuitous class, 1146–1152. 1155–1159——Propriety of educating orphans at Sandhurst, with a view to their obtaining appointments in some of the Government offices, 1158, 1159.

Dissent from the opinion of Colonel Prosser, that young men in the army cannot live comfortably on their pay, 1160–1164——Experience of witness as a field officer adverted to, as showing that officers with their pay only do not often get into debt, and that officers with good allowances more generally do so, 1160. 1164——Very considerable blame attaching to lieutenant-colonels of regiments in regard to extravagance among the officers, 1165–1167.

Propriety of limiting the allowance made to cadets by their parents, 1168, 1169——Check upon the cadets running up bills with the shopkeepers, 1170–1172——Absence generally of extravagance among the cadets, 1173——Each orphan cadet should have 100 *l.* given him for his outfit, 1174–1177.

Great importance of a military education for the army; it should be indispensable, 1178–1182. 1209, 1210——Expediency and facility of increasing considerably the number of cadets at Sandhurst, 1183–1188. 1212——Consideration of the system of charging the first class cadets 125 *l.* a-year, besides extras, 1189–1208——Disposal by purchase, or otherwise, of between 400 and 500 commissions yearly, 1211.

Suggestion that Woolwich, and other places, as well as Sandhurst, might furnish a quota of officers for the line, 1212. 1217–1220——Objection to so large a number of cadets as 1,200 in one college, 1214–1216. 1218——Inexpediency of rendering it compulsory on cadets paying for their education to enter the army, 1222, 1223——Impartial manner in which the appointment of cadets is regulated at Sandhurst, 1224–1228.

Recommendation that no married officer, or any officer above 25 years of age, be admitted to the senior department, 1229, 1230. 1232–1235——The examination which passes out of the junior department should be the entrance examination to the senior department, 1231——Necessity of young and vigorous officers on the staff, 1233. 1235——Suggested alterations in the course of instruction in the senior department, 1237–1242. 1304, 1305——Insufficient number of professors attached to the department, 1243, 1244——Instruction in riding in the department, 1245. 1249——Most of the officers keep horses of their own; allowance of forage to the officers, 1246–1248. 1258.

Vacancies in the senior department; probable causes, 1252, 1253——All officers passing the highest examination should be appointed, as vacancies occurred, to the quartermaster-general's staff, 1256, 1257——Officers, after leaving the department, should be attached to an infantry regiment and a cavalry regiment before appointment to the staff, 1256. 1286–1289——Advantage of the officers in the senior department studying at Aldershott, 1259, 1260. 1295——There is no accommodation at Sandhurst for increasing the department, 1261——Instruction in pontooning adverted to, 1261–1263.

Circumstance of the cadets not being taught to swim, 1264–1267——There should be instruction in chemistry, 1268——Reference to the slight expense incurred under the head of the riding-school, and entrenching, sapping, and pontooning, &c., 1270–1273——

Slight

Report, 1855—*continued.*

Adams, Lieutenant-Colonel. (Analysis of his Evidence)—*continued.*

Slight increase necessary in the senior department, if all the staff were supplied from it, 1274, 1275——Obstacles to the instruction of officers in fortification at Malta, Gibraltar, &c. 1276——Slight value placed by military authorities upon military education, 1277——Staff officers should be selected for their cleverness, but should also possess physical fitness, 1277, 1278. 1282-1284——All staff appointments should be made from the college, 1278, 1279.

Course to be taken in the event of the inefficiency of any officer appointed to the staff, 1280, 1281——Functions of adjutants of regiments adverted to as very inferior to those of staff officers, 1284, 1285——Restrictions at Sandhurst upon instruction in tactical and strategical positions, 1290-1294——Objection to Woolwich as a locality for the senior department, 1296——Inexpediency of the junior department being removed to Aldershott, *ib.*

Any cadets particularly distinguished should go at once to the senior department, 1297——Disadvantage to cadets in transferring them, if meritorious, to Woolwich, 1298——Strong approval of the system of purchase in the English service, *ib.*——Nature of a first-class certificate, 1299, 1300——Objection to the examinations for commissions taking place in London, 1306-1309——Forms gone through by the young men who are not cadets preparatory to final examination, 1310——Length of the examination of each candidate, 1311, 1312——Mention of the examiners, 1313, 1314——No advantage in having military Frenchmen to teach French, 1316, 1317——Instruction in practical mining given at the college, 1318, 1319.

Adams, Lieutenant-Colonel. Letter from Lieutenant-Colonel Adams, dated 10 May, containing a further statement of his views with regard to staff officers, *App. p.* 188, 189.

Addiscombe. Suggestion that boys should not enter till sixteen years of age, as at Addiscombe; the same considered, *Addison* 766-768. 809-813. 846-848. 863-877. 884 *et seq.*——How far the cadets entering Addiscombe at 16 are at any disadvantage as compared with those getting their commissions direct from the East India Company, *ib.* 892-895.

Addison, Major. (Analysis of his Evidence.)—Deputy Assistant Adjutant-general, 758——Was formerly in the senior department at Sandhurst, and obtained a first-class certificate, 759, 760——Defectiveness of the system of education in the junior department from the want of some central or collateral mode of study, as in the public schools, 761-763. 818——Defect in the system of steps, 762, 763——Suggestions with regard to the study of military history, 764. 804-807. 819-824. 848-862. 878-883. 905. 954——Strong opinion expressed by Napoleon in favour of military history as a study, 764, 765.

Recommendation that cadets do not enter the college till sixteen years of age, and that there be a more extended examination on entrance, 766, 767. 808. 846-848. 863-877——Number of cadets who should leave the college yearly without commissions, if boys were not admitted till sixteen, and underwent their final examination between seventeen and eighteen, 767, 768. 809-812——Objections to the system of espionage, and of reporting by the staff sergeants, 769-772. 781-784. 791. 795-803——Suggested system of confidence by which considerable authority is proposed to be vested in the head boys, or the under officers, instead of in the staff sergeants, 770. 773-796——Limited power of personal punishment proposed to be given to the under officers, 774-777. 787-790. 793——Average of about 100 commissions granted yearly in times of peace, 813.

Comparatively small amount of mathematical knowledge required at Sandhurst, 814——Two years' stay might be the maximum allowed in the event of boys entering at sixteen, 815-817——Contemplated teaching of strategy and tactics to a greater extent than at present, 819-824——Insufficiency of the education at the college in regard to staff duties, 825——Want of a recognised book upon staff duties, 826-833.

Objection to a corps in the English service like that of the Etat Major in France, 834——Difficulties in the way of staff instruction by means of schools in the garrison towns, 835-837——So long as an officer is fit to pass a final examination for the staff, it should not matter how or where he had qualified himself, 838-842——Nature of the knowledge requisite for staff examinations, 843-845.

More extended entrance examination contemplated if boys are not admitted till sixteen years of age, 846-848. 863-877——Disadvantage to cadets entering the college at sixteen, as compared with young men obtaining commissions by purchase, the latter generally entering the army at an earlier age, 884-891——How far the cadets entering Addiscombe at sixteen are at any disadvantage as compared with those getting their commissions direct from the Company, 892-895——Drawback upon the inducement to enter Sandhurst, if the great majority of the cadets could not obtain commissions,

Report, 1855—*continued.*

Addison, Major. (Analysis of his Evidence)—*continued.*

896-903——Difficulty in adopting two classes of examinations, one for boys of sixteen years of age, and one for boys of thirteen or fourteen, 904.

Suggestions with regard to the examination on entrance to the senior department, to the effect that it should be more strict, 906. 914-918. 937-946. 950——Class of study in the senior department; amendment suggested, 906. 909-913. 925——Course of examination for a first-class certificate, and for a common certificate, 907, 908——Advantage of learning rapid sketching instead of making elaborate surveys as at present, 909-913. 952, 953——As a general rule, officers for the staff should be selected from Sandhurst; exceptions which might be advisable, 915. 922-924——Difficulty in limiting the age for admission to the senior department, 919-921.

Further consideration of the steps necessary to insure high qualifications in staff officers coming from Sandhurst, 925 *et seq.*——Advantage if the senior department were removed to Farnham, so as to derive benefit from the camp at Aldershott, 729. 973-975——Suggested stricter enforcement of the probationary examination which takes place a few months after the entrance examination, 947-950——Alterations necessary in the staff of professors in the senior department, in order to carry out witness's views, 954-957——Rate of payment by the officers adverted to, 958.

From 1842 to 1851 inclusive there were eight first class certificates given, 959——Small number of those passing through the department who obtain staff appointments, 960-962——Explanation relative to witness's appointment to the staff, 963-965——Particulars as to the different appliances for study at Sandhurst, 966-972——Propriety of a separation of the senior and junior department, 973. 975——Advantage of Woolwich over Sandhurst as a locality for the college, 976, 977.

Addison, Major. Outline of system of military education proposed by Major Addison, *App. p.* 191, 192.

Adjutants. Functions of adjutants of regiments adverted to, as very inferior to those of staff officers, *Adams* 1284, 1285.

Admission of Cadets. Regulations for the admission of the several classes of students, *Prosser* 73, 74——Impartial system of registration, by which selections are made for the different classes, *ib.* 120-123——Impartial manner in which the appointment of cadets is regulated, *Adams*, 1224-1228.

See also *Age of Admission.* *Examinations*, I. 1. *Senior Department*, 2.

Age of Admission:

1. *Junior Department.*
2. *Senior Department.*

1. *Junior Department:*

Consideration of the age at which boys enter the college, *Prosser* 124-129——At present the boys must not be less than 13, nor more than 15 years of age, *ib.* 124——Doubt as to its being an improvement if they did not enter till 14, *ib.* 128, 129.

Recommendation that cadets do not enter the college till 16 years of age, and that there be a more extended examination on entrance, *Addison* 766, 767. 808. 846-848. 863-877——Number of cadets who should leave the college yearly without commissions, if boys were not admitted till 16, and underwent their final examination between 17 and 18, *ib.* 767, 768. 809-812——Respect in which the proposed entrance at not less than 16 years of age, with an extended examination on entrance, would bear hardly upon the orphan cadets, *ib.* 767. 877——Great stimulus to exertion, and superior qualifications, if only a small proportion of the cadets could obtain commissions, as would be the case if they did not enter till 16 years of age, and went up for their final examination before 18, *ib.* 767, 768. 877. 896, 897——Disadvantage to cadets entering the college at 16, as compared with young men obtaining commissions by purchase; the latter generally entering the army at an earlier age, *ib.* 884-891.

Suggestion that the age for admission be 14, *Adams* 987. 1213. 1330, 1331——By entering at 14, a stay of from three to four years would be required, *ib.* 988.——Cadets should be admitted before 15 years of age, and should remain for two or three years, *Wetherall* 1720, 1721. 1723. 1760-1762. 1769. 1780-1785. 1816-1823——Objection to the admission of any boys after the age of 15, *Sir H. Douglas* 2273, 2274.

The Committee see no reason to alter the present age of entrance, *Rep. p.* vi.

2. *Senior Department.*

Officers are admitted at any age over 21, four years' service being necessary, *Prosser* 413. 420——Difficulty in limiting the age for admission, *Addison* 919-921——Recommendation

Report, 1855—*continued.*

Age of Admission—continued.

2. *Senior Department*—continued.

mendation that no married officer, or any officer above 25 years of age, be admitted, *Adams* 1229, 1230. 1232–1235——The limit at present is that an officer must not be under 21 years of age, *ib.* 1236——Restriction advisable in regard to the age for entering the department, *Sir H. Douglas*, 2339. 2344.

See also *Addiscombe. Registration.*

Aides-de-Camp. Qualifications most requisite in aides-de-camp, *Sir J. Burgoyne* 1390. 1401. 1439–1444——Advantage if all aides-de-camp passed through the senior department, *Sir H. Douglas* 2311, 2312. 2324.

Aldershott. Importance of removing the senior department to Farnham or Aldershott in order to study at the camp, *Prosser* 405. 466–468. 473. 528–531; *Addison* 929. 973–975; *Adams* 1259, 1260. 1265; *Wetherall* 1882–1885; *Sir H. Douglas* 2347——Inexpediency of the junior department being removed to Aldershott *Adams* 1296.

Algebra. Examination on entrance in algebra, *Prosser* 141——Course of study subsequently in algebra, *ib.* 150–152. 384. 500——Knowledge of algebra recommended for the final examination, *Adams* 1305——Algebra is not necessary in the examination for commissions in the line, *Sir J. Burgoyne* 1515. 1560.

Arithmetic. Knowledge of arithmetic necessary on entrance to the junior department' *Prosser* 141——Knowledge necessary in the final examination, *ib.* 495–499——Attention paid to the lower branches of arithmetic, *Adams* 1061, 1062. 1064——Arithmetic should still be comprised in the final examination, *ib.* 1086. 1304——There should be a higher entrance examination in arithmetic, *Sir H. Douglas* 2215, 2216.

Artillery. Teaching of artillery drill both at Woolwich and at Sandhurst, *Prosser* 208——Rudiments of artillery instruction given at Sandhurst to the cadets, *ib.* 212–214——Slight practice in artillery, *Addison* 977——How far of use that line officers should understand artillery operations, *Sir J. Burgoyne* 1423–1429——Advisability of line officers being conversant with artillery; opportunities for instruction hereon, *Wetherall* 1795–1808——Great importance to staff and general officers of a knowledge of artillery, *Sir H. Douglas* 2349, 2350——Opinion of Napoleon as to the advantage to a general officer of a knowledge of artillery, *ib.* 2350.

Astronomy. Mode of keeping up the astronomical apparatus, *Prosser* 483——Limited instruction from astronomical apparatus, *Addison* 966, 967——Astronomy is studied in the senior department only, *Adams* 1085——Limited extent to which astronomy is useful in line officers, *Sir J. Burgoyne* 1390——Importance of practical astronomy to staff officers, *Sir H. Douglas* 2299.

Attack. Advantage if the art of attack were an imperative part of the final examination of cadets, *Adams* 1020–1023.

B.

Belgium. Details relative to the system of military education in Belgium, preparatory to obtaining commissions in the army, *Godwin* 2095 *et seq.*——Several young gentlemen serve for a time in the ranks, and having prepared for and passed the necessary entrance examination for the College at Brussels, are educated there at the expense of the State, till they are qualified to receive commissions, *ib.* 2098, 2099. 2115, 2116. 2164——Those who enter without serving in the army are obliged to pay; these are not examined on entrance, *ib.* 2100, 2101. 2164, 2165——Course of study at the college, *ib.* 2102–2104——The superior cadets go into the engineers, artillery and cavalry, *ib.* 2105, 2106. 2121.

Similarity between the Belgian system and that at Addiscombe, *Godwin* 2107–2109——Better mode of conducting the junior examinations at Brussels than at Sandhurst *ib.* 2110–2114——Selection of the most distinguished cadets to serve on the staff in Belgium; course of study there; system with regard to the speical staff corps thus formed, *ib.* 2120–2128. 2139, 2140. 2158–2162. 2171. 2175–2181——Promotion in the Belgian staff on the principle of merit, *ib.* 2122–2127——Mode of promotion in the army, *ib.* 2129–2158.

Superior qualifications of the staff in Belgium as compared with the English staff, *Godwin* 2145–2148. 2160–2162. 2171. 2174–2181——Conduct of the Brussels College adverted to, *ib.* 2156, 2157——Officers get on the Belgian staff when twenty-three or twenty-four years of age, and remain there for life, *ib.* 2160–2162. 2178——Great advantage of the Belgian over the English army in the facilities for the instruction of officers with their regiments, *ib.* 2166–2170. 2182, 2183——All aides-de-camp are appointed from the corps d'Etat Major, *ib.* 2179——Provision made in the army for the military instruction of the common men as well as of the officers, *ib.* 2181, 2182.

Board of Commissioners. See *Commissioners.*

Book-keeping. There is no teaching of any system of book-keeping, though certain things are taught which are essential to keep books, *Adams* 1062–1065.

Report, 1855—*continued.*

Books. The books in which the boys obtaining direct commissions are examined are not specifically mentioned, as in the case of examinations generally, *Prosser* 512–514. 519——List of books formerly recommended, *ib.* 513——A specific list of books is given for the examination in history, *Chepmell* 1637.

Bridges. Importance of staff officers being versed in the construction of bridges, *Sir H. Douglas* 2356.

Broken Windows. Large item granted in 1841 for the repairs of broken windows, *Houndle* 731, 732.

Burgoyne, Lieutenant-General Sir John. (Analysis of his Evidence.)—Was a cadet at Woolwich for nearly two years, 1379–1381——Considers that the best foundation for a staff officer is being a good practical soldier, 1383. 1386. 1393–1395. 1443. 1466–1468——Advantage of education and theoretical knowledge in addition to other attainments, 1383–1386. 1390–1392. 1407, 1408. 1411, 1412. 1430–1432. 1445–1449. 1552–1569——Considerable advantage of Sandhurst as a means of imparting scientific acquirements for the staff, 1385–1390. 1445–1449——Imperfect teaching of fortification; suggested system of lectures hereon, 1387, 1388. 1404, 1405. 1420, 1421——Different qualifications required for the three different classes in the staff, 1390, 1391. 1401. 1407, 1408. 1439–1444. 1481.

Objection to its being compulsory to select all staff officers from the senior department at Sandhurst, 1393–1395. 1400, 1401. 1409, 1410. 1438–1452. 1469–1471. 1483——Disapproval of the French corps of the Etat Major, 1396. 1416, 1417——Appointment of the *officier d'ordonnance* without reference to the Etat Major, 1397, 1398. 1433–1437——Selection of staff officers by Lord Raglan adverted to; excellent character of his personal staff, 1400. 1402, 1403. 1410. 1430. 1450——Advantage if the senior department at Sandhurst studied also at Aldershott, Woolwich and Chatham, 1405, 1406.

Acquaintance of the staff in the Crimea with the French language, 1413. 1418, 1419——Importance of staff officers understanding German, 1414——Witness did not see any difference in the Crimea between the qualifications of staff officers from Sandhurst and those who had not been there, 1415——Advantage of a knowledge of fortification in line officers, 1421——How far of any use that line officers should understand artillery operations, 1423–1429.

Advantage of instructing officers in fortification, &c., when with their regiments in the principal garrison towns, 1453–1458——Difficulties in the way of the scientific instruction of officers through means of the Ordnance schoolmasters, 1459–1461——Obstacles to attaching officers intended for the staff to the different branches of the army, as in the French service, 1462–1465——Desirableness of an extension of the senior department at Sandhurst, with a view to the diffusion of scientific military knowledge among officers generally, 1469–1471——System of promotion and retirement in the French service adverted to, 1472–1476——Want of recognised books upon the duties of the departments of the quartermaster-general and adjutant-general, 1477–1482.

Objection to the course and mode of examination, at Sandhurst, for commissions, as being too difficult, and very fallacious, 1484 *et seq.*——Sufficiency of what is termed a respectable education for officers in the line; manner in which the same might be tested, 1485, 1486. 1489. 1492–1494. 1497–1500. 1505 *et seq.*——Fallacious character of the examination for the artillery, 1495, 1496——More regular conduct of artillery and engineer officers than of officers in the line, 1501–1504——Inexpediency of requiring all candidates for the army to pass through a military college, with a view to the acquisition of theoretical knowledge, 1517–1521. 1528 *et seq.*——Absence of parallel between the necessity of scientific education for the navy and for the army, 1558–1568.

C.

Cæsar. Nature of the examination in Cæsar; it is optional in the candidate, *Cole* 2046–2048.

Captains. Duties of the captains of companies in the junior department, *Prosser* 38. 43. 56.

Cavalry Instruction. Cavalry instruction in the senior department, *Prosser*, 371——Importance of cavalry instruction for staff officers, *ib.* 474–476.

Certificate of Education. See *Education.*

Certificates (*Senior Department*). Certificates given on the examination of officers, *Prosser* 388–392. 399, 400——Course of examination for a first-class certificate and for a common certificate, *Addison* 907, 908——From 1842 to 1851 inclusive there were eight first-class certificates given, *ib.* 959——Nature of a first-class certificate, *Adams* 1299, 1300——Introduction by witness in 1806 of the system of certificates, *Sir H. Douglas* 2291——Course of study respectively for first, second, and third-class certificates, *ib.* 2295–2297.

Reports, 1855—*continued.*

Certificates (*Junior Department*). There is not of necessity any certificate from the school in which the boys have been educated, *Prosser* 524-527.

Chaplain. Salary of 300 *l.* a year to the chaplain; income-tax deducted therefrom, *Houndle* 584——Allowance of 50 *l.* a year to the chaplain for examining candidates for direct commissions, *ib.* 639.

Witness has been chaplain at Sandhurst since 1841; has been connected with the college for twenty years, *Chepmell* 1572, 1573——Duties of witness as chaplain and examiner, *ib.* 1574, 1575. 1581, 1582. 1590–1595——Authority under which witness examines in history and geography for direct commissions; additional salary of 50 *l.* a year for these examinations, *ib.* 1590–1594.

Chatham. Advantage if the officers of the senior department attended the practical school at Chatham, *Prosser* 402.

Chepmell, Rev. H. le M., D.D. (Analysis of his Evidence.)—Chaplain at Sandhurst since 1841; has been connected with the college for twenty years, 1572, 1573——Duties of witness as chaplain and examiner, 1574, 1575. 1581, 1582. 1590–1595——Mode of examination and instruction of the cadets by witness in general history, 1575–1586——System upon which witness conducts the final examination in history as regards cadets, and as regards candidates for direct commissions, 1584, 1585. 1600–1615. 1619–1626. 1631–1637. 1651. 1657, 1658——Obstacles presented by the system of examination in steps to proper instruction in history, 1586–1588——Opportunities of the cadets for reading historical books, 1589.

Authority under which examines in history and geography for direct commissions; additional salary of 50 *l.* a year for these examinations, 1590–1594——For some months past there have been about three direct examinations monthly, 1595——Composition of the Board of Examiners, with the branches in which each examines, 1596——Forms gone through by the young men before examination, 1597–1599——Certificate required in regard to previous religious instruction, 1598, 1599.

Practice in the event of the examination not being satisfactory to the examiner, 1599. 1607——The examiners have no power of final rejection, which rests with the Horse Guards, 1607——Proportion rejected in history, 1616——Since the war the Horse Guards have commissioned several who for their partial failures would formerly have been rejected; practice hereon, 1617, 1618. 1671, 1672——When those rejected are sent up for re-examination they are examined in those branches only in which they failed, 1619, 1620. 1673——Knowledge of dates required in the examination in history; propriety thereof, 1621–1623.

Practice of certifying that the candidate has had the education of a gentleman, if, notwithstanding some failures, the examination has on the whole been satisfactory, 1626. 1659——Superior qualifications of the candidates brought up at public schools generally than of those prepared at cramming schools, 1627–1629. 1648. 1655, 1656——Slight knowledge required in classics, 1657——Reference to a work by witness, entitled, "A short course of History, First Lines," which is much used at cramming schools as well as at Sandhurst, 1636–1639——Preference given to the work of Hallam over that of Hume as a book for study at the college, 1639.

Limit upon the quantity of geography required to be known, 1640, 1641. 1647——System upon which witness conducts the examination in geography, 1640–1643——Comparatively few failures in geography, 1644, 1645——There is a distinct return made to the Horse Guards for each branch of the examination, 1646. 1649——Occasional failures in dictation adverted to, 1650–1654——A failure in dictation would not cause rejection, 1651–1654——Mode adopted by witness in the examination of nervous boys, 1657, 1658.

Belief that all candidates really qualified for the army rarely or never fail to pass the examination, 1659, 1660——Advantage of general intellectual knowledge as well as of professional education in officers of the army, 1659–1661——Approval of a high standard of examination; it should be raised periodically, 1660, 1671, 1672——Cramming, which is inevitable under any system of examination, is a great evil, but still cannot be got up by very ignorant or stupid boys, 1660. 1663–1671.

Instances of very ignorant officers before the army examination was established, 1671, 1672——Approval of a second trial being allowed to boys who fail to pass, 1673. 1675——A third trial is not now allowed, and is not in any case expedient, 1674, 1675——Advantage if the public schools had a military department for the instruction of boys going to Sandhurst, 1676——Cramming at Sandhurst chiefly in regard to fortification, 1677–1679.

Advantages and disadvantages of the system of discipline at Sandhurst as compared with the system at public schools; system at Sandhurst explained, 1680, 1681. 1683. 1687–1689——Inferiority in the general tone of the cadets from the fact of the cleverest and best disposed boys being there for the shortest time, 1682——Objection to obliging every officer to go through a military college, 1684——Advantage of ensuring competition by having several military colleges, 1685, 1686——Particulars relative to the religious instruction of the cadets and to their attendance at chapel, 1691–1706.

Report, 1855—*continued.*

Chymistry. Advantage if chymical lectures were re-introduced, *Prosser* 485——There should be instruction in chymistry, *Adams* 1268.

Classes. Number of boys in each school class, *Prosser* 156——Mode of promotion from one class to another, *ib.* 160.

Classical Education. Prejudice against the college on account of classical education not being mainly taught, *Adams* 1110——Great majority of officers in the army who have received a classical education, *ib.* 1111, 1112——Slight knowledge required of the cadets in classics, *Chepmell* 1657.

Cole, Rev. George Edward, M.A. (Analysis of his Evidence.)—Master at Sandhurst for nine years, of Latin and History, 2012, 2013——Different examinations conducted by witness, 2014–2018. 2020. 2039–2041——Nature of the entrance examination for the junior department, 2019. 2021——Particulars relative to the final examinations in Latin of cadets and of candidates for direct commissions, 2022–2027. 2041–2054. 2061–2076. 2079——Ill effects of the system of examination in steps, 2024–2027——Nature of the final examination in Latin in the senior department, 2028–2030.

Examination for geography in the junior department on entrance and at the end of the course, 2031–2037——Written questions in the Latin examination for direct commissions in the event of the oral examination not being satisfactory, 2048, 2049——Few failures in the Latin examination, 2050. 2057——Proficiency in Latin, &c. of the candidates from public schools, 2051. 2066–2069——Approval generally of the examination in Latin; how far capable of amendment, 2052–2054. 2061–2063. 2070–2076. 2081–2087——Slight final examination in French, 2055.

Nature of the examination in English; few failures therein, 2056–2060——Instances of bad spelling in the writing from dictation, 2059——The five books of Livy which are specified for examination could not be crammed by the candidate, 2061–2063. 2070–2072——Recommendation that English be taught at the college, 2078. 2080——In case of failure to pass a second trial is given, but very rarely is there a third chance, 2088——Re-examinations only take place in the points of failure, 2089, 2090——If the failures be unimportant, the candidate is reported as having the education of a gentleman 2090.

Collegiate Board. Constitution and duties of the Collegiate Board, which is independent of the Supreme Board of Commissioners, *Prosser* 29–31.

Commissioners. Government of the college by a commission who act under Royal Warrant, dated 1802, *Prosser* 7–14——Mode of constitution of the Board of Commissioners; their duties, *ib.* 8, 9. 15–25——Necessary presence of one or more Commissioners at the final examinations, though they rarely take an active part therein, *ib.* 15, 16. 21–25.

Witness, as adjutant-general, is *ex-officio* a Commissioner, *Wetherall* 1710, 1711——Non-interference of the Commissioners with the course of study; composition of the Board adverted to hereon as showing that the *ex-officio* members rarely attend at the college, *ib.* 1729–1742. 1751–1753——The Commander-in-Chief and the Secretary of War are principally responsible as Commissioners, *ib.* 1738–1740.

Reference by the Committee to the appointment of the Commissioners under the Warrant of 1808; their duties, *Rep. p.* iii——Suggestions with regard to the government of the college, and to the appointment of a sub-committee, *ib.* iv.

Commissions. About one half of the cadets who originally enter, obtain commissions through the college examination, *Prosser* 249–251——Advantage of cadets over others who pass the examination at the same time; order in which gazetted, *ib.* 256–258——Commissions are sometimes obtained without any examination at Sandhurst, *ib.* 259——Average of about 100 commissions granted yearly in times of peace, *Addison* 813——Drawback upon the inducement to enter Sandhurst, if the great majority of the cadets could not obtain commissions, *ib.* 896–903.

The cadets do not, as a matter of course, get their commissions, but are, under any circumstances, obliged to undergo an examination before obtaining their commissions, *Adams* 1115–1119. 1121——Disposal by purchase, or otherwise, of between 400 and 500 commissions yearly, *ib.* 1211——Age at which commissions are generally given, *Wetherall* 1723, 1724. 1784, 1785——Number of cadets passing through the college since its foundation, who have or who have not obtained commissions, *Sir H. Douglas* 2197–2201.

See also *Direct Commissions.*

Competition. Advantage of ensuring competition by having several military colleges, *Chepmell* 1685, 1686.

Composition. Extent to which composition in Latin or English is required of cadets, *Prosser* 342–345.

Report, 1855—*continued.*

Confirmation. In the case of examinations for direct commissions, certificates of confirmation are required, which generally vouch also for the moral character of the boys, *Prosser* 522, 523.

Contingencies. Return of the items for which provision is made in the general estimate for contingencies for the year ending 31 March 1856, the total amount being 1,207 *l.*, *Houndle* 617.

Contracts. System of contract adopted in the furnishing of provisions, &c., *Houndle* 681–686——Contracts made for coals and candles, *Cunliffe* 1326, 1327.

Cost of Establishment. Estimate of 80 *l.* a year as the present average cost of each boy to the college, *Prosser* 81–87——Total cost of the college to the third class, who pay 125 *l.* a year, besides extras, *ib.* 100–104——Expense of the senior department adverted to, *ib.* 417, 418——According to the present number of cadets, the entire yearly expense of each is about 80 *l.*, the expense of board and clothing being about 65 *l.*, *Houndle* 753–757——Reference to the estimate that each cadet costs 1 *s.* 5½ *d.* a day for provisions, *Cunliffe* 1328–1333. 1371–1378.

Consideration by the Committee of the cost of the several classes to the college, *Rep. p.* vii——Cost of the senior department adverted to, *ib.* ix.

Cramming. Inexpediency of the system of cramming, under the present mode of examination for direct commissions, *Sir J. Burgoyne* 1554–1556. 1570, 1571——Cramming, which is inevitable under any system of examination, is a great evil, but still cannot be got up by very ignorant or stupid boys, *Chepmell* 1660. 1663–1671——Cramming at Sandhurst, chiefly in regard to fortification, *ib.* 1677–1679.

Cunliffe, John. (Analysis of his Evidence.)—Has been clerk in the pay-office of the college since 1812; 1320–1322——Appointment lately of a quartermaster adverted to, 1323——Explanation upon sundry items in the Parliamentary Estimate for the college, 1324, 1325. 1328–1333. 1342–1353. 1371–1378——Contracts made for coals and candles, 1326, 1327——Reference to the estimate that each cadet costs 1 *s.* 5½ *d.* a day for provisions, 1328–1333. 1371–1378——Inspection of the provisions, &c. before delivery at the college, 1334–1341——Income of the college adverted to, 1354–1356——Explanation as to the college estates producing only about 61 *l.* a year, 1357–1369——The accounts are made up quarterly, and sent in to the War Office for examination, 1370.

D.

Dates. Necessity at present of a knowledge of historical dates, *Adams* 1072, 1073——Knowledge of dates required in the examination in history; propriety thereof, *Chepmell* 1621–1623.

Dictation. Writing from dictation, necessary in the entrance and in the final examination; failures occasionally on this point, *Prosser* 141. 505. 508–511——Approval of writing English from dictation, *Sir J. Burgoyne* 1489. 1505——Occasional failures in dictation adverted to, *Chepmell* 1650–1654——A failure in dictation would not cause rejection, *ib.* 1651–1654——Instances of very bad spelling in writing from dictation, *Cole* 2059.

Direct Commissions. Return, dated 9 May 1855, of the number of candidates for direct commissions during the last three years, specifying the number that have passed or failed at each examination, and the number that have been examined twice or three times, &c. *App. p.* 172.——*See* also *Commissions. Education. Examinations,* II.

Discipline. System under which discipline is kept up in the different companies' rooms, *Prosser* 224–233——Importance of the practical system of discipline and drill in operation, *ib.* 281–283. 298–312——Objections to the system of espionage, and of reporting by the staff sergeants; alterations recommended, *Addison* 769–803; *Wetherall* 1750. 1767, 1768——Suggested system of confidence, by which considerable authority is proposed to be vested in the head boys or the under officers, instead of in the staff sergeants, *Addison* 770. 773–796——Limited power of personal punishment proposed to be given to the under officers, *ib.* 774–777. 787–790. 793.

Duties of the staff sergeants; objection to a transfer of the same to the cadets under officers on the monitorial system, *Adams* 1130–1136. 1140–1145——Advantages and disadvantages of the system of discipline as compared with the system at public schools; system at Sandhurst explained, *Chepmell* 1680, 1681. 1683. 1687–1689.

See also *Fagging.*

Dismissals. Few dismissals of cadets through idleness or misconduct, *Prosser* 327–330——System relative to dismissals for idleness, &c., *ib.* 328. 332–336. 353.

Report, 1855—*continued.*

Divine Service. Regulated allowance of 10 *l.* 10 *s.* for the performance of Divine Service during the part of the vacations when the chaplain is absent, *Houndle* 617.

Necessary attendance of the cadets every evening at the chapel, when a few collects are read by witness, *Chepmell* 1695-1698——Exemption of Roman-catholics and Dissenters from attendance, *ib.* 1698.

Douglas, General Sir Howard, Bart., G.C.B., G.C.M.G. (Analysis of his Evidence.)—Was for a long time connected with the senior department at Sandhurst, and was also inspector-general of instruction, 2184, 2185——Origin of witness's connexion with the senior department, 2185. 2286——Reduction of the number of cadets at the college, in accordance with the report of the Finance Committee of 1817; 2186, 2187——In 1816 there were 361 cadets, 2186. 2209, 2210. 2226.

Strong representation which was made by witness in 1818 against the alterations recommended by the Committee of 1817 in the military character of the education, 2187-2189, and *App. p.* 173-177——Alteration in the senior department in 1820, when it was transferred to Sandhurst, and the number was reduced from thirty to fifteen, 2189. 2210. 2281, 2282——Original course of study of the cadets, 2190——Present course of study, 2191——Grounds for objecting to the final examination of cadets as less military than the examination originally laid down, 2192-2196. 2215——Impropriety of any part of the examination being optional in the cadet, 2193, 2194.

Number of cadets passing through the college since its foundation who have or have not obtained commissions, 2197-2201——Mode in which the several branches of military science are practically taught; general satisfaction expressed therewith, 2202-2206——Advantage if lectures on natural philosophy were re-introduced, 2207, 2208. 2303, 2304——Accommodation available for 270 cadets, 2209——Increase necessary in the educational staff and in the military staff, if there be one or two additional companies of 100 cadets to each, 2211-2214.

Suggested higher examination on the entrance of cadets, 2215-2218——More extended final examination recommended, 2215. 2242——Importance of the office of governor of the college, 2219, 2220. 2275, 2276——Propriety of the professors of the junior department being more liberally paid, 2221-2223——Advantage of encouraging the highest degree of education in the senior department, 2222.

Misfortune in departing from the original charitable foundation of the college; details relative to such departure; the charge to the State having gradually diminished up to 1833, when the college became self-sustaining, 2224-2239. 2242 *et seq.*——Original endowment of the college, 2226——Abolition of the gratuitous orphan class, of which there were originally 30 cadets, 2226. 2229——Decided objection to the college being self-supporting through the very large subscriptions required from the sons of private gentlemen, the large proportion of which class in the college is a practical exclusion to the poorer classes, 2230-2236. 2243. 2252, 2253. 2271, 2272.

Evidence in favour of the re-establishment of a gratuitous orphan class, for which purpose a grant from the State would be necessary, 2230. 2233. 2237, 2238. 2244-2251. 2269, 2270——Propriety of increasing the numbers of the first class, which now pays 40 *l.* a year, 2239. 2257——Advantage if the professors were not the examiners for commissions, 2240——Impracticability of all officers passing through Sandhurst, 2241——Recommended return to the original foundation, 2246. 2257-2259. 2269, 2270.

Very unnecessary expense and extravagance of regimental messes adverted to, as a great evil to officers without independent means, 2247, 2248. 2265. 2267, 2268——Expediency of steps being taken to cut down extravagance in messes, &c.; duty of colonels of regiments hereon, 2247, 2248. 2254-2256. 2264-2266——In the majority of regiments it is impossible for officers, unless endowed with a very rare degree of self-denial, to live on their pay in times of peace, 2247, 2248. 2267, 2268——Objection to the admission of any boys after the age of fifteen, 2273, 2274——Further reference to the necessity of increasing the military staff, if there be more cadets, 2275-2280.

Objection formerly made by witness, and now repeated, against the reduction in the senior department in 1820, and against the transfer of the department to Sandhurst, 2283-2285. 2314-2318——Importance of a military staff for the senior department, as was originally the case, 2285——High abilities of Mr. Narrien adverted to, *ib.*——Origin of the establishment at High Wycombe of the senior department in 1799; 2286. 2313——Connexion of General Jarry with the department; his peculiar abilities for the position, *ib.*——Programme of instruction when the department was established, 2287——Present programme of instruction, 2288.

Number of officers who have passed through the senior department and have obtained certificates, 2289, 2290. 2292——Introduction by witness, in 1806, of the system of certificates, 2291——Number of officers with certificates now employed on the staff, 2293, 2294——Course of study respectively for first, second, and third class certificates, 2295-2297——Approval of the course of study as amply sufficient, and as at the same time necessary generally for an accomplished staff officer, 2298, 2299. 2336. 2359——Operations performed upon the ground by the officers, 2300. 2305——Extent to which the

Report, 1855—*continued.*

Douglas, General Sir Howard, Bart., G. C. B. (Analysis of his Evidence)—*continued.*

the subject of elementary mechanics is carried, 2301——Facilities for sapping and mining operations, 2302.

Until the establishment of the senior department, there was no institution for teaching the practical duties of the staff, 2306, 2307——Efficiency of the staff during the Peninsular War; list of distinguished officers from the senior department who served in the war, 2308–2310——Employment in the Peninsula of several officers from the senior department, on the recommendation of witness, 2309——Advantage of all aides-de-camp passing through the senior department, 2311, 2312. 2324——Desirableness of permitting officers whose regiments are abroad to enter the college, 2320–2361, 2362——Insufficient stay of the officers at the college, 2321.

Objection to a special staff corps in this country as in France, 2322. 2335——Suggestions with a view to prevent the appointment of inefficient staff officers, 2323-2325. 2335 *et seq.*——Inferiority of the military institutions of this country to those of other nations, 2326——Abstract statement (prepared by witness), containing an account of all the military institutions in Europe and the United States of America, 2327, 2328, and *App. p.* 178–188.

Explanation in detail relative to the establishment and operation of the corps *d'Etat Major* in France, 2329–2334. 2356, and *App. p.* 184–188——Facilities for entering L'École Polytechnique; system of prizes for distinguished students, 2333——System recommended for adoption, in order to confer upon the British army the advantages which have been conferred upon the French army by the special staff corps and the special school, 2335 *et seq.*

Means for preventing the appointment to the senior department of more than one officer from the same regiment, 2340–2342——Officers of all ranks should be admissible, 2343-2345——Circumstance of the late Sir Charles Napier, when about thirty-five years of age, having passed through the senior department, 2343, 2344. 2346——Instance of a general officer having stayed three days at the college in order to learn something about sieges, 2344——Recommended removal of the senior department to Farnham in order to be near Aldershott, 2347——Great importance to staff and general officers of a knowledge of artillery, 2349, 2350.

Anticipation that during the next peace the army will be in a more organised state in regard to staff officers, &c. than during the late peace, 2353, 2354——Importance of staff officers being versed in the construction of bridges, 2356——Instances of officers having come to the college without seriously intending to study; check upon this abuse, 2362–2365——Limited number of officers lately at the College adverted to as owing probably to the fact of so few staff appointments being given to those obtaining certificates, 2366, 2367.

Ridiculously low character of the examination for direct commissions, 2368, 2369. 2378, 2379——Contemplated increase gradually in the examination for direct commissions, 2370, 2371. 2380–2382——Advantage of means in garrison towns and large foreign stations for the instruction of officers, and also of the men, in fortification and military science generally, 2371–2377——Recommended course of military history for direct examinations, 2378——Fortification might with advantage be left out, 2380——Inference that before examinations were established some officers entered the army whose education was mischievously low, 2383.

Drawings. Waste of time at the college in the execution of highly finished drawings, *Wetherall* 1906, 1907——Approval of the military drawing and surveying, *Godwin* 2150–2155.

E.

Education. Importance of the military education at Sandhurst to all officers; its advantages over a system of ordinary education, *Prosser* 260–275. 280, *et seq.*——Doubt as to the policy and practicability of making all officers pass through Sandhurst, *ib.* 271, 272. 296. 319–322——Better education of officers now than in former years, *ib.* 273–275.

Greater aptitude as officers of boys educated at Sandhurst than of those educated at public schools, *Adams* 1010——Great importance of a military education for the army; it should be indispensable, *ib.* 1178–1182. 1209, 1210——Inexpediency of rendering it compulsory on cadets paying for their education to enter the army, *ib.* 1222, 1223——Slight value placed by military authorities upon military education, *ib.* 1277.

Sufficiency of what is termed a respectable education for officers in the line; manner in which the same might be tested, *Sir J. Burgoyne* 1485, 1486. 1489. 1492–1494. 1497–1500. 1505 *et seq.*——A recommendation from the parties who educated the candidates for commissions, together with a very light examination, should be sufficient, *ib.* 1489 *et seq.*——Inexpediency of requiring all candidates for the army to pass through a military college, *ib.* 1517–1521. 1528 *et seq.*; *Chepmell* 1684; *Wetherall* 1787 1790.

Report, 1855—*continued.*

Education—continued.

1812——Absence of parallel between the necessity of scientific education for the army and for the navy, *Sir J. Burgoyne* 1558–1568.

Advantage of general intellectual knowledge, as well as of professional education, in officers of the army, *Chepmell* 1659–1661——Instances of very ignorant officers before the army examination was established, *ib.* 1671, 1672.

Respect in which advantageous to officers in being educated at Sandhurst, *Wetherall* 1714–1717. 1786, 1791–1794——The education of a gentleman should be given, without reference to anything but a few indispensable professional acquirements, *ib.* 1722——Sufficiency of the education at public schools for officers entering the line, *ib.* 1791. 1813——A certificate that each candidate for the army had received the education of a gentleman should be quite sufficient, without any examination, *ib.* 1940–1947.

Statement of objections urged by witness in 1818 against the changes recommended by the Finance Committee of 1817 in the system of education of cadets, *Sir H. Douglas* 2187–2189; and *App. p.* 173–177——Impracticability of all officers passing through Sandhurst, *Sir H. Douglas* 2241——Inference that before examinations were established some officers entered the army whose education was mischievously low, *ib.* 2383.

Suggestions by Major Addison in regard to the course of education advisable, *App. p.* 191, 192.

Revision by the Commissioners both as regards junior and senior departments recommended by the Committee, *Rep. p.* vi. ix.——Suggestion with a view to the education in the junior department being mainly of a military character, *ib.* vi.

See also *Belgium. Classical Education. Cramming. Examinations. French Language. Garrison Towns and Foreign Stations. Geology. Geography. German Language. History. Infantry Instruction. Junior Department. Latin. Mathematics. Military History. Orphans. Practical Instruction. Public Schools. Sapping and Mining. Senior Department,* 4. *Theoretical Instruction. Trigonometry.*

English Language. Nature of the examination in English; few failures therein, *Cole* 2056–2060——Recommendation that English be taught at the College, *ib.* 2078. 2080.

See also *Dictation.*

Ensigns. Desirableness and practicability of junior ensigns studying for a period at Sandhurst before joining their regiments, *Wetherall* 2003–2011.

Estates of College. Examinations as to the estimate of 300 *l.* a year for the "Fencing, planting, and improvements of the College estates," which comprise about 300 acres, *Houndle* 708–730——Explanation as to the College estates producing only about 61 *l.* a year, *Cunliffe* 1357–1369.

Etat Major (*France*). Constitution and working of L'Ecole Spéciale d'Etat Major, which was founded subsequently to the senior department at Sandhurst, which it resembles, *Prosser* 361–365. 369, 370. 428–431——Disapproval of a system like the French corps of the Etat Major, *Addison* 834; *Sir John Burgoyne* 1396. 1416, 1417; *Sir H. Douglas* 2322. 2335—— Appointment in the French service of the Officier d'Ordonnance without reference to the Etat Major, *Sir John Burgoyne* 1397, 1398. 1433–1437.

Explanation in detail relative to the establishment and operation of the Corps d'Etat Major in France, *Sir H. Douglas* 2329–2334. 2356; and *App. p.* 184–188——The Corps d'Etat Major was organised in 1816, *ib.* 2330——Course of study at L'Ecole Spéciale d'Etat Major, and general mode of operation, *ib.* 2331–2334——The period of stay at the school is two years, which is sometimes extended, *ib.* 2333——High qualifications with which the young men enter the school, *ib.* 2333, 2334.

Euclid. Course of study necessary in Euclid, *Prosser* 150–153. 169. 176. 181. 384——The Six Books of Euclid should be comprised in the final examination of cadets, *Adams* 1068.

EXAMINATIONS:

I. JUNIOR DEPARTMENT:
1. *Entrance Examination.*
2. *Examination in Steps.*
3. *Final Examination.*

II. SENIOR DEPARTMENT.

III. DIRECT COMMISSIONS.

I. JUNIOR DEPARTMENT:

1. *Entrance Examination:*

Examination necessary upon the entrance of each cadet, *Prosser* 141–143. 147–149; *Cole* 2019. 2021——More extended entrance examination contemplated if boys are not admitted

Report, 1855—*continued.*

EXAMINATIONS—continued.

I. JUNIOR DEPARTMENT—continued.

1. *Entrance Examination*—continued.

admitted till sixteen years of age, *Addison* 846–848. 863–877——Difficulty in adopting two classes of examinations, one for boys of sixteen years of age, and one for boys of thirteen or fourteen, *ib.* 904——Injudicious relaxation hitherto of the entrance examination, *Adams* 990–995. 1008. 1153, 1154. 1303——Suggestions relative to the branches of study to be required, *ib.* 990. 998–1006——Suggested higher examination on the entrance of cadets, *Sir H. Douglas* 2215–2218.

The Committee see no reason to alter the standard on entrance, *Rep. p.* vi.

2. *Examination in Steps:*

Ill effects of the system of examination in steps, *Addison* 762, 763; *Cole* 2024–2027——Propriety of abolishing the system of steps; for this purpose the final examination should comprise all the branches of study of each cadet, and a Lieutenant-governor's examination half-yearly should be substituted for the present examination in steps, *Adams* 1089–1096. 1120, 1121——The system of steps should be improved, *Rep. p.* vi.

3. *Final Examination:*

Necessary attendance of Commissioners at the final examination of cadets, *Prosser* 15——The final examinations are all *vivâ voce*, *ib.* 26, 27——Distinction between private and public examinations, *ib.* 41, 42——Nature of final examination in the case of cadets; branches of study which are respectively imperative and optional, *ib.* 181–186. 236–247. 487 *et seq.*

In the final examination there are six branches of study, three of which are imperative, *Adams* 1018, 1019——Suggestions with a view to the amendment of the final examination, *ib.* 1066, *et seq.* 1304, 1305——Objection to any branch of the final examination being obtained in the cadet, *Adams* 1066, 1067. 1363; *Sir H. Douglas* 2193, 2194.

Objection to the course of examination as being a great deal too high, *Sir J. Burgoyne* 1488 *et seq.*——Presence of a quorum of Commissioners at the examinations, *Wetherall* 1725, 1726——Grounds for objecting to the final examination of cadets as less military than the examination originally laid down, *Sir H. Douglas* 2192–2196. 2215——More extended final examination recommended, *ib.* 2215. 2242.

II. SENIOR DEPARTMENT:

Nature of the knowledge requisite for staff examinations, *Addison* 843–845——Suggestions with regard to the examination on entrance to the senior department, to the effect that it should be more strict, *ib.* 906. 914–918. 937–946. 950——The examination which passes out of the junior department should be the entrance examination to the senior department, *Adams* 1231——Sufficiency of the entrance examination for the senior department, *Wetherall* 1831. 1834. 1896, 1897——Course of study for the half-yearly examinations in the department, *ib.* 1832, 1833——Sufficiency of the final examination, *ib.* 1843——There should be a strict examination on entrance to the senior department, *Sir H. Douglas* 2337, 2338. 2364.

III. DIRECT COMMISSIONS:

Nature of the examination when a commission is obtained by patronage or purchase; it is much higher than that exacted by the College, *Prosser* 177–180. 195–199. 486 *et seq.*

Occasional study at the college in the case of those who obtain the Commissions independently of the college, and pass the lighter examination, *ib.* 187–199——Witness presides at the examinations for direct commissions, and has four professors under him, *ib.* 486——Respects in which the examination is *vivâ voce*, *ib.* 488——Less strict examination within the last few years, *ib.* 520.

Arrangement relative to the monthly examinations for direct commissions, so as not to interfere with the ordinary business of the college, *Houndle* 733–736——Objection to the examinations for direct commissions being held elsewhere than at Sandhurst, as thereby the professors would have to absent themselves from their proper duties, 743–748, *ib.*——Objection to the examinations for commissions taking place in London, *Adams* 1306–1309——Forms gone through by young men who are not cadets preparatory to final examination, *Adams* 1310; *Chepmell* 1597–1599——Length of the examination of each candidate, *Adams* 1311, 1312.

Objection to the course and mode of examination at Sandhurst for commissions, as being too difficult, and very fallacious, *Sir J. Burgoyne* 1484 *et seq.*——The *vivâ voce* examination should be very slight, *ib.* 1489——For some months past there have been about three direct examinations monthly, *Chepmell* 1565——There is a distinct return made to the Horse Guards for each branch of the examination, *ib.* 1646. 1649——Approval of a high standard of examination; it should be raised periodically, *ib.* 1660. 1671, 1672.

Report, 1855—*continued.*

EXAMINATIONS—continued.

III. *Direct Commissions*—continued.

The Commissioners are not present at the examinations for direct commissions, *Wetherall* 1934-1936——The system of examination was established by the late Duke of Wellington a few years before his death, *ib.* 1988-1990——Ridiculously low character of the examination, *Sir H. Douglas* 2368, 2369. 2378, 2379——Contemplated increase gradually in the examination for direct commissions, *ib.* 2370, 2371. 2380-2382.

Resumé by the Committee of the system of examination for direct commissions, *Rep. p.* x.

See also *Algebra. Arithmetic. Books. Cramming. Dictation. Education. Examiners. Failures. Fortification. French Language. Geography. German Language. History. Junior Department. Latin. Mathematics. Probationary Examinations. Senior Department*, 4. *Tasks. Trigonometry.*

Examiners. Recommendation in order to obviate the conduct of the examinations in the senior as well as in the junior department by the College professors, *Adams* 1087, 1088. 1254, 1255——Mention of the examiners, *ib.* 1313, 1314——Composition of the Board of Examiners, with the branches in which each examines, *Chepmell* 1596——The object of a good examiner should be to find out whether there is anything in the candidate, and to prevent his getting nervous or confused, *ib.* 1657, 1658——Improvement if examinations were conducted by parties unconnected with the college, *Wetherall* 1844, 1845; *Sir H. Douglas* 2240; *Rep. p.* vi.

Exercise. Arrangements for manly exercises; deficiences herein, *Prosser* 337-341.

Extra Plans. Copy of governor's order, dated 2d February 1848, relative to extra plans by officers in the senior department, *Wetherall* 1833.

F.

Fagging. There is no system of fagging, strong laws having been passed against it, *Prosser* 228. 232, 233.

Failures. Character and numbers of the failures to pass at the direct examinations, *Prosser* 487. 507-509. 515, 516——There may be said to be four chances before actual failure, *ib.* 488. 517——Notwithstanding failure in several branches, boys are allowed to pass if it be considered that they have the education of gentlemen, *ib.* 506-511. 516. 520, 521——The aggregate of failures is taken in deciding whether a boy is fit to pass; leniency on this point, *ib.* 506-511. 516. 520, 521.

Practice in the event of the examination not being satisfactory to the examiner, *Chepmell* 1599. 1607——Since the war, the Horse Guards have commissioned several who for their partial failures would formerly have been rejected; practice hereon, *ib.* 1617, 1618. 1671, 1672——When those rejected are sent up for re-examination, they are examined in those branches only in which they failed, *Chepmell* 1619, 1620. 1673; *Cole* 2089, 2090——Approval of a second trial being allowed to boys who fail to pass, *Chepmell* 1673-1675——A third trial is not now allowed, and is not in any case expedient, *ib.* 1674, 1675.

Fair manner in which the authorities at the Horse Guards act, in the event of the examination of any boy being a failure in some points, *Wetherall* 1937-1939. 1991-1997——A third chance is but very rarely given, *Cole* 2088——If the failures be unimportant, the candidate is reported as having the education of a gentleman, *ib.* 2090.

See also *Dictation. Geography. History.*

Fencing, Planting, &c. The fencing, planting, &c., is done at the expense of the college, *Houndle* 573, 574——Explanation of the item of 300 *l.* for the fencing, planting, and improvement of the College estate, *Houndle* 708-730; *Cunliffe* 1342-1353.

First Class. Payment of 40 *l.* a year by the first class, *Prosser* 74——Opportunity for increasing the first class but for the expense, *ib.* 88——Boon to officers, if the number of the 40 *l.* class were doubled, *Wetherall* 1811.

See also *Orphans.*

Five Courts. The expense (about 300 *l.*) of building the five courts was defrayed out of the proceeds of the sale of land at Farnham, *Houndle* 562. 731.

Forage, &c. Increase in the item for forage for officers' horses, the price having risen, *Houndle* 688——Most of the officers keep horses of their own; allowance of forage to the officers, *Adams* 1246-1248. 1258——Practice with regard to the keeping of horses in the service department, *Wetherall* 1929-1933.

Report, 1855—*continued.*

Foreign Countries. Inferiority of the military institutions of this country to those of other nations, *Sir H. Douglas* 2326——Abstract statement (prepared by witness) containing an account of all the military institutions in Europe and the United States of America, *ib.* 2327, 2328; and *App. p.* 178–188.

Fortification. Nature of the instruction given and required in field fortification, *Prosser* 181. 200–204. 247. 503–504; *Adams* 1070——Another professor besides witness teaches fortification, *Adams* 1056–1059——There should be a separate teacher of fortification in the senior department, *ib.* 1243, 1244.

Imperfect teaching of fortification; suggested system of lectures hereon, *Sir J. Burgoyne* 1387, 1388. 1404, 1405. 1420, 1421——Advantage of a knowledge of fortification in line officers, *ib.* 1421——Practical mode of instruction in fortification, *Sir H. Douglas* 2202——Fortification might with advantage be left out in the examination for direct commissions, *ib.* 2380.

See also *Garrison Towns and Foreign Stations.*

Foundation. Misfortune in departing from the original charitable foundation of the College; details of such departure, the charge to the State having gradually diminished up to 1833, when the College became self-sustaining, *Sir H. Douglas* 2224–2239. 2242 *et seq.*——Original endowments of the College, *ib.* 2226——Recommended return to the original foundation, *ib.* 2246. 2257–2259. 2269, 2270.

Copy of remonstrance by Sir H. Douglas in 1818 against changes proposed in the conduct of the College by the Finance Committee of 1817, *App. p.* 173–177.

Foundation of the institution adverted to by the Committee, *Rep. p.* iii.

France. Particulars relative to the system of instruction and discipline at the French schools, *Prosser* 346–370. 428–431——Age of admission and length of stay at St. Cyr and the Polytechnic, *Adams* 1011——System of promotion and retirement in the French army adverted to, *Sir J. Burgoyne* 1472–1476——Proficiency of the students at L'Ecole Spéciale St. Cyr; staff appointment, given to the most distinguished young men, *Sir H. Douglas* 2330. 2333——Facilities for entering L'Ecole Polytechnique; system of prizes for distinguished students, *ib.* 2333——Statement by Sir Howard Douglas relative to the military institutions of France, *App. p.* 178–188.—— *See* also *Etat Major* (*France*).

French Language. Knowledge of French necessary for the final examination of cadets, *Prosser* 181, 132. 236–247. 501——Consideration of the steps to be taken in regard to a knowledge of French in the senior department, *Addison* 934–946——Practice relative to the French classes, *Adams* 1028, 1029——No advantage in having military Frenchmen to teach French, *ib.* 1316, 1317——There should be a higher standard of French for the entrance and final examination in the junior department, *ib.* 998. 1068——A much higher standard of French should be required also in the senior department, *ib.* 1239, 1240. 1305.

French and German should be studied by the officers, *Wetherall* 1837–1840——Insufficient knowledge of French required in the junior department, *ib.* 1908–1914——Slight final examination in French, *Cole* 2055——Advantage of French to a military education, *Sir H. Douglas* 2195.

Furniture, &c. Expense of 350 *l.* for furniture, house linen, bedding, &c., for the year ending 31 March 1856, *Houndle* 617.

G.

Garrison Towns and Foreign Stations. Difficulties in the way of staff instruction by means of schools in the garrison towns, *Addison* 835–837——Obstacles to the instruction of officers in fortification at Malta, Gibraltar, &c., *Adams* 1276——Advantage of instructing officers in fortification, &c., when with their regiments in the principal garrison towns, *Sir J. Burgoyne* 1453–1458——Plan recently proposed by Mr. Sidney Herbert for enabling officers on the principal military stations to improve themselves by study, and for establishing an examination before promotion; approval in the main of this plan, *Wetherall* 1961–1987. 2001——Advantage of means in garrison towns and large foreign stations for the instruction of officers, and also of the men in fortification and military science generally, *Sir H. Douglas* 2371–2377.

Geography. Nature of the final examination in geography, *Prosser* 494——Limit upon the quantity of geography required to be known, *Chapmell* 1640. 1641, 1647——System upon which witness conducts the examination in geography, *ib.* 1640–1643——Comparatively few failures in geography, *ib.* 1644, 1645——Examination for geography in the junior department on entrance and at the end of the course, *Cole* 2031–2037——Specimen of the questions, *App. p.* 189.

Geology. Importance of introducing instruction in geology, *Addison* 971, 972.

Report, 1855—*continued.*

German Language. Knowledge of German necessary for the final examination, *Prosser* 181. 236. 242. 246, 247——Secondary importance of German as compared with French, *Adams* 1055——Witness does not attach much importance to a knowledge of German In the senior department, *Addison* 866, 867——Some knowledge of German should be required, *Adams* 1241——Importance of staff officers understanding German, *Sir J. Burgoyne* 1414.

Godwin, John. (Analysis of his Evidence.)—Was educated at the senior department at Sandhurst in the years 1827–29, 2091, 2092——Was resident in Belgium during the years 1847–54, 2093, 2094——Details relative to the system of military education in Belgium preparatory to obtaining commissions in the army, 2095 *et seq.*——The superior cadets go into the artillery engineers and cavalry, 2105, 2106. 2121——Similarity between the Belgian system and that at Addiscombe, 2107–2109.

Better mode of conducting the junior examinations at Brussels than at Sandhurst, 2110–2114——Selection of the most distinguished cadets to serve on the staff in Belgium; course of study of these; system in regard to the special staff corps thus formed, 2120–2128. 2139, 2140. 2158–2162. 2171. 2175–2181——Promotion in the Belgian staff on the principle of merit, 2122–2127——Mode of promotion in the Belgian army, 2129–2138.

Decided objection to the arrangement of the English staff, 2139——Very great deficiency in the senior department at Sandhurst, through the want of a military professor, like General Jarry, to teach military science and its practical application, 2141–2147. 2155. 2175——Superior qualifications of the staff in Belgium, as compared with the English staff, 2145–2148. 2160–2162. 2171–2174. 2181——Great defect as regards the study of military history at Sandhurst, 2148–2150——Approval of the military drawing and surveying at Sandhurst, 2150–2155.

Conduct of the Brussels College adverted to, 2156–2157——Officers get on the Belgian staff when twenty-three or twenty-four years of age, and remain there for life, 2160–2162. 2178——Great advantage of the Belgian over the English army in the facilities for the instruction of officers with their regiments, 2166–2170. 2182, 2183——Witness has been on the staff of the English army, and has published a series of plans of the Peninsular War, 2172, 2173——Provision made in the Belgian army for the military instruction of the common men, as well as of the officers, 2181, 2182.

Government of College. See *Commissioners.*

Governor. Duties of the governor, *Prosser* 29. 32. 50; *Adams* 1104——Appointment generally of most eminent military men as governors, *Prosser* 46–48——Salary of 1,000*l.* a year to the governor, besides a house and some land, *ib.* 48–50. 54, 55.

Reduction in 1830 of the governor's salary from 1,500*l.* to 1,000*l.* a year, *Houndle* 587——Residence, forage for horses, and other emoluments enjoyed by the governor, *ib.* 589–607. 623, 624, 626——The governor also receives pay as colonel of the 4th Light Dragoons, *ib.* 589——Forage is allowed for four horses; how the same is calculated and paid for, *ib.* 595–603.

Necessity at present of the office of governor; advantage of his being a person of high standing, *Adams* 1098, 1099. 1101, 1102. 1109–1114——The governor should be made more responsible for the course of study, *Wetherall* 1754, 1755——Importance of the office of governor being retained, *Sir H. Douglas* 2219, 2220. 2275, 2276.

Gratuitous Class. Cessation of the gratuitous class of cadets in 1822, from which period till 1832 the orphan class paid 20*l.* a year; minute of a committee of the commissioners in explanation of this charge, *Houndle* 750, 751——Suggestions relative to the admission of a gratuitous class, *Adams* 1146–1152, 1155–1159——Out of 180 cadets there might be 25 in the gratuitous class, *ib.* 1148——A certain portion of this class should consist of the children of subaltern officers, *ib.* 1148–1152. 1155, 1156.

Propriety of a gratuitous orphan class at the college, *Wetherall* 1770–1774——Abolition of the gratuitous orphan class, of which there were originally thirty cadets, *Sir H. Douglas* 2226–2229——Evidence in favour of the re-establishment of a gratuitous orphan class, for which purpose a grant from the state would be necessary, *ib.* 2230. 2233. 2237, 2238. 2244–2251, 2269, 2270.

Suggestions by the Committee for the creation of a gratuitous class of twenty orphan cadets, *Rep. p.* vii, viii.

See also *Orphans.*

H.

Hallam's History. Preference given to the work of Hallam over that of Hume as a book for study at the College, *Chepmell* 1639.

Height or Stature. Measurement of candidates for direct commissions, though not rejected on the score of height, *Chepmell* 1597, 1598.

Report, 1855—*continued.*

Herbert, Right Hon. Sidney. Letter from Mr. Sidney Herbert to Lord Hardinge, dated January 1854, relative to military education, *App. p.* 193–195.

History. Particulars as to the examinations in history, *Prosser* 181–186. 247. 489–493——There are most failures in history, *ib.* 507.

Mode of examination and instruction of the cadets by witness in general history, *Chepmell* 1575–1586. 1610——System upon which witness conducts the final examination in history as regards cadets, and as regards candidates for direct commissions, *ib.* 1584, 1585. 1600–1615. 1619–1626. 1631–1637. 1651. 1657, 1658——Obstacles presented by the system of examination in steps to proper instruction in history, *ib.* 1586–1588——Opportunities of the cadets for reading historical books, *ib.* 1589.

If a candidate fail in history, fifteen written questions are given him as a last resource; particulars hereon, *Chepmell* 1600–1607——*Vivâ voce* examination in history, unless the candidate is found likely to fail, *ib.* 1601. 1608, 1609——Considerations upon which witness passes or declines to pass the candidates in history, *ib.* 1607–1609. 1612–1615. 1621–1626. 1631–1633. 1651——Proportion rejected in history, *ib.* 1616——The examination comprises both ancient and modern history, *ib.* 1631——Reference to a work by witness, entitled "A short Course of History, First Lines," which is much used at cramming schools as well as at Sandhurst, *ib.* 1636–1639.

Suggestions for amending the present course of study in history, *Wetherall* 1746, 1747. 1763–1766——Objection to Dr. Chepmell's work on history, *ib.* 1747——Objectionable character of the examination in history for direct commissions, *Sir H. Douglas* 2378, 2379——Specimen of the questions, *App. p.* 190.

See also *Dates. Hallam's History. Military History.*

Horsemanship. Suggested teaching of horsemanship in the senior department, *Prosser* 455. 465——Nature of the instruction and examination in horsemanship, *Adams* 1097. 1245. 1249——Good horsemanship should be compulsory in staff officers, *Wetherall* 1926–1928.

Hospital. Contingent expense of 100*l.* for the year ending 31 March 1856, *Houndle* 617.

Houndle, Edward. (Analysis of his Evidence.)—Secretary since 1837 to the Commissioners of the Royal Military College, 532, 533——Duties of witness, 534–537. 567. 572. 581——Amount of his salary as secretary, 538. 737——He is also chief clerk in the adjutant-general's office, 539, 540. 738, 739——General state, newly delivered in, of the receipts and expenditure on account of the college, from 1 April 1853 to 31 March 1854; 541——Sketch of the income and expenditure for each year since 1832, when Parliamentary aid was withdrawn, *ib.*——Establishment and charge of the college in 1803, as taken from the Parliamentary estimate for that year, 542——Establishment and charge in 1815, *ib.*

Reference to the estimates for each year from 1816 to 1832 inclusive, as showing the gradual reductions made in the establishment and staff, and in the annual charge of the college to the public, 542. 548, 549——Establishment in 1832, when the Parliamentary votes ceased, 542——Tenth Report of the Military Commission, in 1809, adverted to as containing a remarkably correct history of the college, 543–546——Adoption of all the recommendations made in the Report of 1809; 546——Nearly similar expenditure in 1815 as in 1809; 546, 547.

Income and expenditure in 1832–33 and in 1854; 550–555——Reduced expenditure since 1850–51, when the college was relieved of the charge of repairs, which amounted to about 1,000*l.* a year, 556–560——Slight additions since 1832–33 to the items of expenditure, 561——Building of the riding-house adverted to, 562, 563——The expense (about 300*l.*) of building the Fives Court was defrayed out of the proceeds of the sale of land at Farnham, 562. 731——An annual debtor and creditor account is prepared up the 31st March for the Secretary of War, 564–566.

Payment of the subscriptions of the cadets into the Bank of England, 567——Duty of the paymaster to attend to the details of the accounts, 567, 568——Requisition by three Commissioners upon which issues of money are made at the Bank for the quarterly service of the college, 569–572——The fencing, planting, &c., is done at the expense of the college, 573, 574——Payment of the cadets' subscriptions for the period of entry to the paymaster, 575.

Deduction of the income tax from the salaries of the several officers by the paymaster, who receives the money for such salaries from witness; it eventually goes to the Income Tax Commissioners, 576–586——Copy of the War-office instructions relative to income duty on effective army services, 584——Returns containing particulars relative to the pay or allowance, &c., of each officer connected with the college, and specifying the amount of income duty deducted therefrom, for the period from 1 January 1854 to 31 March 1855 inclusive, *ib.*——Deduction of contribution to the superannuation fund before the income tax is stopped, 584. 740——Return showing the exemption of the organist's salary from income duty, 584.

Report, 1855—*continued.*

Houndle, Edward. (Analysis of his Evidence)—*continued.*

Reduction in 1830 of the governor's salary from 1,500 *l.* to 1,000 *l.* a year, 587—— Residence, forage for horses, and other emoluments enjoyed by the governor, 589–607. 623, 624. 626——Particulars relative to the salary and emoluments of the lieutenant-governor, amounting in the whole to about 1,000 *l.* a year, 608–623——Return of the items for which provision is made in the general estimate for contingencies for the year ending 31 March 1856, the total amount being 1,207 *l.* ; 618.

Allowance for servants to each officer in the college at the rate of 1 *s.* 6 *d.* a day for each servant, 618. 623–626——Salary of 300 *l.* a year to the major and superintendent of studies, besides his half-pay as major, 627–631——Details relative to the salaries, emoluments, &c., of the several other persons connected with the college, 632–680—— Half-pay to which several of the officers are entitled, independently of their appointments, 632–637. 648–652——Extra allowance to the professors, &c., of 50 *l.* a year, in respect of the examinations for direct commissions, 639. 641. 653–657. 746——Expense of instruction in sapping and pontooning, and of materials, &c., 660–664.

System of contract adopted in the furnishing of provisions, &c., 681–686——Practice as to the allowance of coals, candles, and oil, 687——Increase in the item for forage, the price having risen, 688——Particulars relative to the mode of supply, &c., of the stationery; advantage if furnished by the Stationery-office on requisition, 689–706—— Examination as to the estimate of 300 *l.* a year, for the "fencing, planting, and improvement of the college estate," which comprises about 300 acres, 708–730.

Large item granted in 1841 for the repairs of broken windows, 731, 732——Arrangement relative to the monthly examinations for direct commissions, so as not to interfere with the ordinary business of the college, 733–736——Explanation as to the amount of witness's salary (150 *l.* a year), 737——Circumstance of the college, though a Government establishment, being liable to rates and taxes, 741, 742——Objection to the examinations for direct commissions being held elsewhere than at Sandhurst, as thereby the professors would have to absent themselves from their proper duties, 743–748.

Statement of the number of cadets of the several classes, and of the amount of subscriptions in 1803 and 1854, and in some of the intervening years, 749–752——There were thirty officers of the senior department previously to 1825, and fifteen since that period, paying at the rate of thirty guineas a year, 750——Cessation of the gratuitous class of cadets in 1822, from which period till 1832 the orphan class paid 20 *l.* a year; minute of a committee of the Commissioners in explanation of this change, 750, 751—— Since 1832 the orphan class have paid 40 *l.* a year, 751——According to the present number of cadets, the entire yearly expense of each is about 80 *l.*, the expense of board and clothing being about 65 *l.*, 753–757.

Huts. Advantage of employing the officers of the senior departments, but not the cadets, in huts, *Prosser* 324.

I.

Imposition Studies. Reference to the rooms taken up by the cadets in doing imposition studies, *Adams* 1107, 1108.

Income and Expenditure. General statement delivered in, of the receipt and expenditure on account of the college from 1st of April 1853 to 31st of March 1854, *Houndle* 541 ——Sketch of the income and expenditure for each year since 1832, when Parliamentary aid was withdrawn, *ib.*——Establishments and charge in 1803, as taken from the Parliamentary estimate for that year, *ib.* 542——Establishment and charge in 1815, *ib.*

Reference to the estimates for each year from 1816 to 1832 inclusive, as showing the gradual reductions made in the establishment and staff, and the annual charge of the college to the public, *Houndle* 542. 548, 549——Nearly similar expenditure in 1815 as in 1809, *ib.* 546, 547——Income and expenditure in 1832-33 and in 1854, *ib.* 550–555 ——Slight additions since 1832-33 to the items of expenditure, *ib.* 561——Income of the college adverted to, *Cunliffe* 1354–1356.

Resumé by the Committee upon the subject of receipts and expenditure, *Rep. p.* iv. vii.

Income Tax (Salaries). Deduction of the income tax from the salaries of the several officers by the paymaster, who receives the money for such salaries from witness; it eventually goes to the Income Tax Commissioners, *Houndle* 576–586——Return showing the deductions from salaries from 1 January 1854 to 31 March 1855, *ib.* 584——Copy of the War-office instructions relative to income duty on effective army services, *ib.*

Indian Army. Efficiency of the staff of the Indian army, *Prosser* 442, 443.

Infantry Instruction. Extent to which the infantry instruction of the cadets is carried, *Prosser*, 220–223.

J.

Jarry, General. Objection to General Jarry's book on staff duties, *Sir J. Burgoyne* 1477–1479——Connexion in former years of General Jarry with the senior department; his peculiar abilities for the position, *Sir H. Douglas* 2286. 2313.

Junior Department. Evidence in detail relative to the course of study, &c. pursued by each boy from the time he enters the junior department till he leaves it, *Prosser* 150 *et seq.* ——Very light course of study necessary in former years, *ib.* 215–219——Defectiveness of the system of education in the junior department from the want of some central or collateral mode of study as in the public schools, *Addison* 761–763. 818——Particulars as to the different appliances for study, *ib.* 966–972.

Practice of certifying that the candidate has had the education of a gentleman if, notwithstanding some failures, the examination on the whole has been satisfactory, *Chepmell* 1626. 1659——Belief that all candidates really qualified for the army rarely or never fail to pass the examination, *ib.* 1659, 1660——Sufficiently military character of the education of cadets, *ib.* 1776–1780.

Strong representation which was made by witness in 1818 against the alteration made by the Committee of 1817 in the military character of the education, *Sir H. Douglas* 2187–2189, and *App. p.* 173–177——Original course of study of the cadets, *Sir H. Douglas* 2190——Present course of study, *ib.* 2191——Necessity of increasing the military staff if there be more cadets, *ib.* 2211–2214. 2275–2280——Establishment of the junior department in 1800, *ib.* 2313.

Suggestions by Major Addison for the conduct of the department, *App. p.* 191, 192.

Objects of the establishment of the department adverted to by the Committee, *Rep. p.* iii.——Resumé of the present regulations in regard to the department, *ib.* v, vi——Suggested alterations in the system of education therein *ib.* vi.

See also *Accommodation. Admission of Cadets. Age of Admission,* 1. *Belgium. Certificates (Junior Department). Education. Examinations,* I. *Examiners. Foundation. Mathematics. Period of Study. Professors. Public Schools. Separation of Departments.*

L.

Land Transport Corps. Facilities at the senior department for teaching the principles of the Commissariat land transport, *Addison* 928.

Languages. Knowledge of languages necessary for the entrance examination of cadets, *Prosser* 141——Also for the final examination, *ib.* 236–247. 501.

See also *French Language. German Language. Latin.*

Latin. Option as to examination in Latin; nature of the examination, *Prosser* 181. 243, 244. 247. 501, 502——Uselessness of a knowledge of Latin in line officers, *Adams* 999, 1000. 1032–1036——Nature of the study in Latin; it is not often chosen for the final examination, *ib.* 1033, 1034. 1044–1051.

Witness has been master at Sandhurt, for nine years, of Latin and History, *Cole* 2012, 2013——Different examinations conducted by witness, *ib.* 2014–2018. 2020. 2039–2041 ——Slight entrance examination in Latin, *ib.* 2019. 2021——Particulars relative to the final examinations of cadets, and of candidates for direct commissions, *ib.* 2022–2027. 2041–2054. 2061–2076. 2079——Nature of the final examination in the senior department, *ib.* 2028–2030.

Written questions in the Latin examination for direct commissions, in the event of the oral examination not being satisfactory, *Cole* 2048, 2049——Few failures in the Latin examination, *ib.* 2050. 2057——Approval generally of the examination; how far capable of amendment, *ib.* 2052–2054. 2061–2063. 2070–2076. 2081–2087——It would be an improvement if, in the final examination, cadets were to translate a passage on paper, as well as *vivâ voce, ib.* 2081–2087.

Le Marchant, General. Establishment of the senior department, in 1779, mainly through the recommendation of this officer, *Sir H. Douglas* 2286. 2313; *Rep. p.* viii.

Lecture Room. Want of a lecture-room in the college, *Prosser* 64. 67.

Library. Character of the college library; how formed, *Prosser* 481, 482——The library is a very good one, *Addison* 966.

Lieutenant-Colonels of Regiments. Very considerable blame attaching to lieutenant-colonels of regiments, in regard to extravagance among the officers, *Adams* 1165–1167.

Report, 1855—*continued.*

Lieutenant-Governor. Witness is lieutenant-governor of the college; was previously, for twelve years, major and superintendent of studies, *Prosser* 1-4——Was educated at Sandhurst, and was then there for three years, *ib.* 5, 6——Duties of the lieutenant-governor, *ib.* 33-35——Responsibility of the lieutenant-governor for the discipline, *ib.* 35.

Particulars relative to the salary and emoluments of the lieutenant-governor, amounting in the whole to about 1,000 *l.* a year, *Houndle* 608-623——Payment of about 240 *l.* made to the lieutenant-governor out of the contingent fund, *ib.* 608-618——Estimate on this head of 247 *l.* 1 *s.*, for the year ending 31 March 1856, *ib.* 615——He receives 300 *l.* a year, army pay, as lieutenant-colonel, 382 *l.* 5 *s.* as lieutenant-governor, and 320 *l.* (estimated) in the shape of house and perquisites, *ib.* 616.

Necessity of the office of lieutenant-governor, *Adams* 1101, 1103, 1104.

Livy. Examination in Livy in the case of cadets, and of candidates for direct commissions, *Cole* 2022. 2043-2049. 2061-2065. 2070-2072. 2079——The five books of Livy which are specified for examination could not be crammed by the candidate, *ib.* 2061-2063. 2070-2072.

Locality of College. See *Aldershott. Woolwich.*

Logarithms. Logarithms are much too hard for the examination for commissions, *Sir J. Burgoyne* 1513. 1522, 1523——Recommended introduction of logarithms, *Sir H. Douglas* 2215.

M.

Major and Superintendent of Studies. The offices of superintendent and major have been blended since 1833, *Prosser* 28——Duties of the major, in which office four offices are, in fact, combined, *ib.* 39, 40. 43-45——Salary of 300 *l.* a year to the major and superintendent of studies, besides his half pay as major, *Houndle* 627-631.

No necessity whatever for the office of major and superintendent of studies, *Adams* 1103, 1104. 1301.

Marine Cadets. How far expedient to adopt at Sandhurst the mode of qualification of marine cadets before appointment, *Prosser* 268-270. 291-296.

Married Officers. Instances of married officers coming to the senior department for the sake of convenience instead of study, *Wetherall* 1893-1897. 1903.

Mathematics. Nature of the study and final examinations in mathematics considered, *Prosser* 150-152. 161-176. 181. 247. 255. 384——Allowance of 50 *l.* a year to the professor of mathematics for examining candidates for commissions, *Houndle* 641——Comparatively small amount of mathematical knowledge required at Sandhurst, *Addison* 814——Detriment from requiring a study of the higher branches of mathematics; suggestion hereon, *Adams* 1024, 1025——Mathematics should be essential, as far as trigonometry, *ib.* 1068. 1304——The mathematical course in the senior department is unnecessarily high, *ib.* 1237, 1238——Approval of the course of mathematics, *Sir J. Burgoyne* 1389——The higher branches of mathematics, as taught in the junior department, are useless to the cadets, *Wetherall* 1720. 1728. 1743. 1758, 1759, 1778——Course of mathematics in the senior department adverted to, *ib.* 1748, 1749.

Mechanics. Mechanics should be the highest branch in mathematics for the senior department, *Adams* 1238——Nature of the study of elementary mechanics, *Sir H. Douglas* 2204. 2301.

Medical Inspection. Medical inspection before examination for direct commissions, *Chepmell* 1597, 1598.

Mensuration. Mensuration of planes and solids should be indispensable to a strictly military education, *Sir H. Douglas* 2215.

Messes of Regiments. Very unnecessary expense and extravagance of regimental messes adverted to as a great evil to officers without independent means, *Sir H. Douglas* 2247, 2248. 2265. 2267, 2268——Expediency of steps being taken to cut down extravagance in messes, &c.; duty of colonels of regiments hereon, *ib.* 2247, 2248. 2254-2256. 2264-2266.

Military Education. See *Education.*

Military History. Suggestions with regard to the study of military history, *Addison* 764. 804-807. 819-824. 848-862. 878-883. 905. 954; *Adams* 1071-1081——Strong opinion expressed by Napoleon in favour of military history as a study, *Addison* 764, 765——There should be a more extended course of military history for the senior department, *Adams* 1238, 1239. 1305——Military history should be specially studied in the senior department, *Wetherall* 1841, 1842.

Report, 1855—*continued.*

Military History—continued.

Great defect at present as regards the study of military history, *Godwin* 2148–2150——Advantage of a knowledge of history; the course on which should be military history, *Sir H. Douglas* 2196——Recommended course of military history for direct examinations, *ib.* 2378——Approval of military history being introduced, *Rep. p.* vi.

See also *History. Peninsular War.*

Military Science. Witness has been for twelve years professor of military science at the college, *Adams* 978, 979——He has nothing to do with the final examination of cadets, *ib.* 1001–1003. 1302. 1315.

Very great deficiency in the senior department at Sandhurst, through the want of a military professor like General Jarry, to teach military science and its practical application, *Godwin* 2141–2147. 2155. 2175; *Sir H. Douglas* 2285——Mode in which the several branches of military science are practically taught in the junior department; general satisfaction expressed therewith, *Sir H. Douglas* 2202–2206.

Military Secretary. Qualifications essential in a military secretary, *Sir J. Burgoyne* 1390.

Models. A good model room is wanted, the present one being over-crowded, *Prosser* 64–67——Advantage of increasing the instruction from the model department, *Addison* 967——Importance of lectures upon models as a means of instruction in fortification, &c., *Sir J. Burgoyne* 1387, 1388. 1404, 1405. 1420. 1453–1455.

N.

Napier, Sir Charles (The late). Circumstance of the late Sir Charles Napier, when about thirty-five years of age, having passed through the senior department, *Sir H. Douglas* 2343, 2344. 2346; *Rep. p.* viii.

Narrien, Mr. Great value of the services of Mr. Narrien, teacher and examiner in the senior department, *Prosser* 407. 451. 473——High abilities of Mr. Narrien adverted to, *Sir H. Douglas* 2285——Exertions of Mr. Narrien adverted to by the Committee, *Rep. p.* ix.

Natural Philosophy. Advantage if lectures on natural philosophy were re-introduced, *Sir H. Douglas* 2207, 2208. 2303, 2304.

Nervous Boys. Mode adopted by witness in the examination of nervous boys, *Chepmell* 1657, 1658.

Non-Commissioned Officers. Duties of the cadet non-commissioned officers, *Adams* 1129. 1140, 1141.

Number of Cadets. Reduction several years ago in the number of cadets to two companies of ninety each, *Prosser* 57–59. 62——Number of each class, and total number of cadets in the college, *ib.* 110. 116–119. 132. 219——The 70*l.* and 80*l.* classes comprise at present but one cadet; explanation hereon, *ib.* 118. 130. 132, 133——There are but 170 cadets at present, on account of the unusually large number of commissions given in 1854, *ib.* 119——About 1,200 cadets are being passed annually through Sandhurst, being about twice as many as in times of peace, *ib.* 296, 297——Statement of the number of cadets of the several classes, and of the amount of subscriptions in 1803 and 1854, and in some of the intervening years, *Houndle* 749–752——There were 412 cadets in 1815, which was the largest number in any year, *ib.* 749, 750.

Expediency and facility of increasing considerably the number of cadets at Sandhurst, *Adams* 1183–1188. 1212——Objection to so large a number of cadets as 1,200 in one college, *ib.* 1214–1216. 1218——Reduction of the number of cadets at the college, in accordance with the Report of the Finance Committee of 1817, *Sir H. Douglas* 2186, 2187——In 1816 there were 361 cadets, *ib.* 2186. 2209, 2210. 2226.

See also *Accommodation.*

O.

Officers of the Line. Hopeless and uncomfortable position of any orphan cadet who enters the army, having nothing but his pay, on which alone he cannot live comfortably, *Prosser* 88, 89. 107–109——Dissent from the opinion of Colonel Prosser, that young men in the army cannot live comfortably on their pay, *Adams* 1160–1164——Experience of witness as a field officer adverted to, as showing that officers with their pay only do not often get into debt, and that officers with good allowances more frequently do so, *ib.* 1160. 1164.

Report, 1855—*continued.*

Officers of the Line—continued.

Though extremely difficult for young men to live in the army without independent means, witness has known many instances of men living on their pay and saving money out of it, *Wetherall* 1774——Necessity of checking extravagance in regiments, *ib.* 1775——More regular conduct of artillery and engineer officers than of officers in the line, *Sir J. Burgoyne* 1501–1504——In the majority of regiments it is impossible for officers, unless endowed with a very rare degree of self-denial, to live on their pay in times of peace, *Sir H. Douglas* 2247, 2248. 2267, 2268.

See also *Education. Garrison Towns and Foreign Stations. Lieutenant-Colonels of Regiments. Messes of Regiments. Promotion of Officers. Senior Department.*

Ordnance Schoolmasters. Difficulties in the way of the scientific instruction of officers through means of the Ordnance schoolmasters, *Sir J. Burgoyne* 1459–1461.

Organist. Return showing the exemption of the salary of the organist from income duty, *Houndle* 584——Estimated expense of 45 *l.* for the organist and organ in the year ending 31 March 1856, *ib.* 617.

Orphans. Practice relative to the admission of orphans who are comprised in the first class, and pay 40 *l.* per annum, *Prosser* 74–80. 97——Opportunity for increasing the orphan class but for the expense, *ib.* 88——Facility of providing orphans with excellent education at the college other than for the army, *ib.* 90, 91. 113——Opinion that it would be better to give the orphans the cost of their education, &c. at the college than to admit them with reference to the army as a profession, *ib.* 92–99. 113, 114——Frequent qualification of the orphan class for staff appointments, *ib.* 111, 112.

From 1822 to 1832 the orphan class paid 20 *l.* a year, and since 1832, 40 *l.* a year, *Houndle* 750, 751——Propriety of educating orphans at Sandhurst, with a view to their obtaining appointments in some of the Government offices, *Adams* 1158, 1159; *Wetherall* 1809——Expediency of increasing the numbers of the first class, which now pays 40 *l.* a year, *Wetherall* 1811; *Sir H. Douglas* 2239. 2257.

More favourable consideration to which the orphan class are entitled, *Rep. p.* vii——Recommended creation of twenty Queen cadetships, to be given gratuitously to orphans; suggestions for carrying out this proposition, *ib.* vii, viii——The expense should be borne by Parliament, *ib.*

See also *First Class. Foundation. Gratuitous Class. Officers of the Line. Outfit of Orphans. Pocket Money. Self-Support.*

Outfit of Orphans. Each orphan cadet should have a 100 *l.* given him for his outfit *Adams* 1174–1177——Propriety of paying for the army outfit of the orphan class, *Wetherall* 1810——It would be a great boon and a very excellent measure to give 100 *l.* or 150 *l.* to each orphan cadet on obtaining his commission, *Sir H. Douglas* 2238. 2247.

Suggestion by the Committee that the orphans be entitled to the same outfit as is granted to an officer promoted from the ranks, *Rep. p.* viii.

P.

Parliamentary Estimate. Explanation upon sundry items in the Parliamentary estimate for the college, *Cunliffe* 1324, 1325. 1328–1333. 1342–1353. 1371–1378.

Parliamentary Grants. Reference to the estimates for each year, from 1816 to 1832 inclusive, as showing the gradual reductions made in the establishment and the annual charge of the college to the public for that period, *Houndle* 542. 548, 549——In 1816 the charge to the public was 33,819 *l.*, exclusive of compensation awarded to the parishioners of Sandhurst, and in 1831, 5,627 *l.*, *ib.* 542——Establishment in 1832, when the Parliamentary votes ceased, *ib.*

Recommendations by the Committee in favour of aid from Parliament towards both junior and senior departments, *Rep. p.* vii. ix.

Peace. Propriety of the standard of examination being the same in peace as in war, *Wetherall* 1997.

Peninsular War. Recommended introduction of Sir W. Napier's "History of the Peninsular War," *Sir H. Douglas* 2378.

Period of Study. Necessity of the course of study being learned in a fixed time, *Prosser* 234, 235——Average stay at the college before going up for examination, *ib.* 248——Approval of the present period of instruction, *ib.* 325, 326——Period for remaining in the senior department, *ib.* 393–396. 412.

Period of Study—continued.

Two years' stay might be the maximum allowed in the event of boys entering at sixteen, *Addison* 815–817——Boys entering at fourteen or fifteen alike remain generally till they are eighteen years old, *Adams* 1017. 1060——Insufficient stay of the officers at the college, *Sir H. Douglas* 2321.

Perquisites of Officials. Practice as to the allowance of coals, candles, and oil, *Houndle* 687.——*See* also *Forage, &c.* *Servants.*

Physical Defects. Expediency of excluding persons (now admitted) with defect of speech or other physical defects, *Adams* 990–997. 1007, 1008——The rule repecting physical defects should be strictly enforced, *Rep. p.* vi.——*See* also *Stammerers.*

Plantations. Thinning of the plantations adverted to; how applied, *Houndle* 712–717. 730——Practice of not cutting down the timber, *ib.* 722. 729, 730.

See also *Planting, Fencing, &c.*

Pocket Money. Pocket money allowed to the orphan class; the lowest allowance is 1*s.* 6*d.* a week, and the highest is 6*s.*, *Prosser* 75. 105, 106——Restriction upon the amount of pocket money to be given to the cadets by their friends, *ib.* 115——Propriety of limiting the allowance made to cadets by their parents, *Adams* 1168, 1169——Check upon the cadets running up bills with the shopkeepers, *ib.* 1170–1172——Absence generally of extravagance among the cadets, *ib.* 1173.

Expediency of removing the present restriction in regard to the amount of pocket money allowed to the cadets by their parents, *Wetherall* 1916–1925.

Pontooning. Instruction in pontooning adverted to, *Adams* 1261–1263——Defect in the mode of instruction in pontooning, *Sir H. Douglas* 2206.

Practical Instruction. Advantage of the practical instruction given at the college, *Prosser* 280–287. 298–308——Operations performed upon the ground by the officers, *Sir H. Douglas* 2300. 2305.

Presbyterians. The Presbyterian cadets are exempted from the religious instruction and the attendance at the chapel, *Chepmell* 1698–1702——There are generally about four Presbyterians at the college, *ib.* 1703.

Printing. Advantage of a slight knowledge of printing, mere writing being often nearly illegible, *Adams* 1037–1041——A legible handwriting should be substituted for printing, *Wetherall* 1906.

Probationary Examination. Suggested stricter enforcement of the probationary examination, which takes place a few months after the entrance examination, *Addison* 947–950.

Proceedings of the Committee. *Rep. p.* xi–xx.

Professors. Inadequate number of professors at present, *Prosser* 159. 407, 408——Want of another historical professor in the college, *ib.* 159. 276, 277——Smaller proportion of professors at Sandhurst than at Woolwich, *ib.* 205——With one more professor, an addition of ten orphan cadets might be made, *ib.* 278, 279——Insufficiency of the staff establishment attached to the senior department; increase recommended, *ib.* 372–376. 406–408. 411.

Alterations necessary in the staff of professors in the senior department, in order to carry out witness's views, *Addison* 954–957——Inability of a class of about twenty-five boys being properly attended to by one professor in two hours, *Adams* 1026, 1027——Suggestions with regard to an increase in the number of professors, *ib.* 1051–1055——Necessity of an additional French professor, *ib.* 1053, 1054——Another professor besides witness teaches fortification, *ib.* 1056–1059.

Boys should not remain under the same professors in the same branch, *Adams* 1122–1124——Insufficient number of professors attached to the senior department, *ib.* 1243, 1244——There should be a separate mathematical professor in the senior department, *ib.*——Recommended increase of professors for the senior department, *Wetherall* 1835, 1836——Increase necessary in the educational staff, if there be one or two additional companies of cadets, *Sir H. Douglas* 2211–2214.

See also *Examiners.* *Salaries, &c.* *Staff of College.*

Promotion of Officers. Advantage if officers before being promoted were obliged to study, and to undergo certain examinations; insufficient examination at present before promotion, *Wetherall* 1813–1815. 1948–1987. 2001——Rare instance of the promotion of officers being delayed because of inability to pass the required examination, *ib.* 1998–2000.

Prosser, Colonel. (Analysis of his Evidence.)—Lieutenant-governor of Sandhurst College; was previously for twelve years major and superintendent of studies, 1–4——Was educated at Sandhurst, and was there for three years, 5, 6——Government of the college by a Commission who act under Royal warrant, dated 1802; 7–14——Mode of constitution

Prosser, Colonel. (Analysis of his Evidence)—*continued.*

tution of the Board of Commissioners; their duties, 8, 9. 15–25——The final examinations are all *vivâ voce*, 26, 27——The offices of superintendent and major have been blended since 1833; 28——Duties of the governor, 29. 32. 53——Constitution and duty of the Collegiate Board, 29–31——Duties of the Lieutenant-governor, 33–35.

Mode of punishment of the cadets, 36, 37——Duties of the captains, 38. 43. 56——Duties of the major, in which office four offices are in fact combined, 39, 40. 43–45——Distinction between private and public examinations, 41, 42——Appointment generally of most eminent military men as governors, 46–48——Salary of 1,000 *l.* a year to the governor, besides a house and some land, 48–50. 54, 55——There is no Government grant to the college for any purpose, 50.

Reduction several years ago in the number of cadets to two companies of ninety each, 57–59. 62——Facility at present for the reception altogether of about 270 cadets; explanation on this point, there having been at one time as many as 361; 60–72——Regulations for the admission of the several classes of students, 73, 74——Practice relative to the admission of orphans who are comprised in the first class, and pay 40 *l.* per annum, 74–80. 97——Pocket-money allowed to the orphan class, 75. 105, 106——Estimate of 80 *l.* a year as the present average cost of each boy to the college, 81–87.

Opportunity for increasing the first class, but for the expense, 88——Hopeless and uncomfortable position of any orphan cadet who enters the army, having nothing but his pay, 89. 99. 107–109——Facility of providing orphans with excellent education at the college, other than that for the army, 90, 91. 113——Opinion that it would be better to give the orphans the cost of their education, &c., at the college than to admit them with reference to the army as a profession, 92–99. 113, 114.

Total cost of the college to the third class, who pay 125 *l.* a year, besides extras, 100–104——Number of each class and total number of cadets in the college, 110. 116–119. 132. 219——Frequent qualification of the orphan class for staff appointments, 111, 112——Restriction upon the amount of pocket money to be given to the cadets by their friends, 115——Large number in the 125 *l.* class adverted to, as enabling the establishment to be self-supporting, 116. 130–140——The 70 *l.* and 80 *l.* classes comprise at present but one cadet; explanations hereon, 118. 130. 132, 133——There are but 170 cadets now in the college, on account of the unusually large number of commissions given in 1854; 119.

Impartial system of registration by which selections are made for the different classes, 120–123——Consideration of the age at which boys enter the college, 124–129——Very few superannuations annually, 126——Examination necessary upon the entrance of each cadet, 141—143. 147–149——Few rejections on the entrance examination, 144–146——Evidence in detail relative to the course of study pursued by each boy from the time he enters the college till he leaves it, 150 *et seq.*; 203 *et seq.*——Want of another historical professor in the college, 159. 276, 277.

Nature of the examination when a commission is obtained by patronage or purchase; it is much lighter than that exacted by the college, 177–180. 195–199. 486 *et seq.*——Final examination in the case of cadets; branches of study which are respectively imperative and optional, 181–186. 236–247. 487 *et seq.*——Necessary knowledge of field fortification, 181. 200–204. 247. 503, 504——Particulars as to the examinations in history, 181–186. 247. 489–493——Occasional study at the college in the case of those who obtain their commissions independently of the college and pass the lighter examination, 187–199.

Smaller proportion of professors at Sandhurst than at Woolwich, 205——The entrance at Woolwich is from fourteen to 16; 206——The highest class there pays 120 *l.* a year, 207——Teaching of cavalry drill both at Woolwich and Sandhurst, 208——Disadvantage in the cadets at Sandhurst not being taught to swim, 209–211——Rudiments of artillery instruction given, 212–214——Very light course of study necessary in former years, 215–219——Extent to which infantry instruction is carried, 220–223.

System under which discipline is kept up in the different companies' rooms, 224–233——There is no system of fagging, strong laws having been passed against it, 228. 232, 233——Necessity of the course of study being learned in a fixed time, 234, 235——Average stay at the college before going up for examination, 248——About one-half of those who originally enter obtain commissions through the college examination, 249–251——The public school boys are not at all behindhand at the college, 253–255——Advantage of cadets over others who pass the examination at the same time; order in which gazetted, 256–258.

Commissions are sometimes obtained without any examination at Sandhurst, 259——Importance of the military education at Sandhurst to all officers; its advantages over a system of ordinary education, 260–275. 280 *et seq.*——How far expedient to adopt at Sandhurst the mode of qualification of marine cadets before appointment, 268–270. 291–296——Doubt as to the policy or practicability of making all officers pass through Sandhurst, 271, 272. 296. 319–322——Better education of officers now than in former years, 273–275.

Report, 1855—*continued.*

Prosser, Colonel. (Analysis of his Evidence)—*continued.*

With one more professor an addition of ten orphan cadets might be made, 278, 279——Advantage of the practical instruction at Sandhurst, 280–287. 298–308——Importance of the practical system of discipline, 281–283. 298–312——Apathy of men of property who purchase their commissions, as compared with cadets, in reference to study, 289, 290——About 1,200 cadets are being passed annually through Sandhurst at present, being about twice as many as in times of peace, 296, 297——Insufficiency of mere theoretic knowledge, howsoever well imparted, to make a good officer, 298–317.

Objection to the cadets being lodged in the professors' houses, 323——Advantage of employing the officers of the senior departments, but not the cadets, in huts, 324——Approval of the present period of instruction, 325, 326——Few dismissals through idleness or misconduct, 327–330——System relative to dismissals for idleness, &c., 328. 332–336. 353——Arrangements for manly exercises; deficiences hereon, 337–341——Extent to which composition in Latin or English is required, 342–345.

Particulars relative to the system of instruction and discipline at the French military schools, 346–370. 428–431——Expediency, to a certain extent, of a staff instruction in the British service as in the French, for a special staff corps, 365. 444——Cavalry instruction at Sandhurst adverted to, 371——Insufficiency of the staff establishment attached to the senior department; increase recommended, 372–374. 406–408. 411——Explanation as to there being only fifteen officers in the senior dedartment, 375–380. 471, 472——Mode of selection and admission, entrance, examination, and course of study, &c. of these officers, 381 *et seq.*, &c.

Certificates given on the examination of officers in the senior department, 388–392. 399, 400——Period for remaining in the department, 393–396. 412——Small number of staff appointments obtained by officers in the department; insufficiency of the study considered, with a view to its improvement, 398. 402–408. 422 *et seq.*——Qualifications necessary to make a good staff officer, besides his acquirements in the senior department, 400. 402. 445–447. 455——Improvement of late years in the course of instruction in the department, 401, 422.

Advantage if the officers of the senior department attended the practical school at Chatham, 402——Importance of separating the senior from the junior department; the locality of the former might be removed to Farnham or Aldershott, 405. 466–468. 473. 528–531——Great value of the services of Mr. Narrien, teacher and examiner in the senior department, 407. 451. 473——Expense of the department adverted to, 417, 418——Payment of the repairs of the college partly by the Woods and Forests, 419.

Want of books in the English language on staff duties, 436–441——Efficiency of the staff of the Indian army, 442, 443——Several appointments from Sandhurst to the staff in the Crimea, 453–455——Suggested teaching of horsemanship in the senior department, 455. 465——Importance of the education given as a preliminary to the formation of a good staff officer, 457–461——Suggestions that officers before receiving staff appointments prove their efficiency as supernumeraries, 462–464. 477–480——Importance of cavalry instructions for staff officers, 474–476.

Character of the college library; how formed, 481, 482——Mode of keeping up the astronomical apparatus, 483——Advantage if chemical lectures were re-introduced, 485——Witness presides at the examinations for direct commissions, and has four professors under him, 486——Character and number of the failures to pass, 487. 507–509. 515, 516——Respects in which the examination is *vivâ voce*, 488——There may be said to be four chances before actual failure, 488. 517——Notwithstanding failure in several branches, boys are allowed to pass if it be considered that they have the education of gentlemen, 506–511. 516. 520, 521.

The books in which the boys obtaining direct commissions, are examined, are not specifically mentioned, as in the date of examinations generally, 512–514. 519——List of books formerly recommended, 513——Difficulty of a system of tasks as a means of judging of ability, 518——Less strict examination within the last few years, 520——Certificates of confirmation are required, which generally vouch also for the moral character of the boys, 522, 523——There is not, of necessity, any certificate from the school in which the boys have been educated, 524–527.

Provisions, &c. Inspection of the provisions, &c., before delivery at the college, *Cunliffe* 1334–1341.

Public Schools. The public school boys are not at all behindhand at the college, *Prosser* 253–255——Respect wherein the education at Sandhurst differs from, and is superior to the system at public schools, *Adams* 1012–1017——Superior qualifications of the candidates brought up at public schools generally, than of those prepared at cramming schools, *Chepmell* 1627–1629. 1648. 1655, 1656——Advantage if the public schools had a military department for the instruction of boys going to Sandhurst, *ib.* 1676——Superiority, as compared with public schools, in the general tone of the cadets, from the

Report, 1855—*continued.*

Public Schools—continued.

fact of the cleverest and best disposed boys being there for the shortest time, *Chepmell* 1682——Proficiency in Latin, &c., of the candidates from public schools, *Cole* 2051. 2066–2069.——*See* also *Education.*

Punishments. Punishments to which the cadets are subjected, *Prosser* 36, 37; *Adams* 1105, 1106.——*See* also *Discipline.*

Purchase in the Army. Apathy of men of property who purchase their commissions, as compared with cadets, in reference to study, *Prosser* 289, 290——Strong approval of the system of purchase in the English service, *Adams* 1298——Argument that the poor man is benefited thereby as much as the rich man, *ib.*

Q.

Quartermaster. Appointment lately of a quartermaster at the college, *Cunliffe* 1323.

R.

Rates and Taxes. Circumstance of the college, though a Government establishment, being liable to rates and taxes, *Houndle* 741, 742.

Registration. Boys must be ten years of age before registration for cadetships, *Prosser* 127.

Rejections. Few rejections on the entrance examination, *Prosser* 144–146——The examiners have no power of final rejection, which rests with the Horse Guards, *Chepmell* 1607.——*See* also *Failures.*

Religious Instruction. Certificates required of boys in regard to previous religious instruction, *Chepmell* 1598, 1599——Particulars relative to the religious instruction of the cadets, and to their attendance at chapel, *ib.* 1691–1706.

Repairs. Payment of the repairs of the college partly by the Woods and Forests, *Prosser* 419——Reduced expenditure since 1850–51, when the college was relieved of the charge of repairs, which amounted to about 1,000*l.* a year, *Houndle* 556–560.

Report of 1809. Tenth report of the Military Commission in 1809 adverted to, as containing a remarkably correct history of the college, *Houndle* 543–546——Adoption of all the recommendations made in the report of 1809, *ib.* 546.

Riding-House. Building of the riding-house adverted to, *Houndle* 562, 563.

Roman-Catholics. The children of Roman-catholics are exempted from the religious instruction and the attendance at the chapel, *Chepmell* 1698–1703——They do not generally attend mass, *ib.* 1704——Very few Roman-catholics ever at the college, *ib.* 1705, 1706.

Russia. Statement by Sir Howard Douglas, of the military institutions of Russia, *App. p.* 182.

S.

Salaries, &c. Returns containing particulars relative to the pay or allowance, &c. of each officer connected with the college for the period from 1st January 1854 to 31st March 1855 inclusive, *Houndle* 584——Details relative to the salaries, emoluments, &c. of the several persons connected with the college, 589 *et seq.*——Half-pay to which several of the officers are entitled, independently of their appointments, 632–637, 648–652, *ib.*——Extra allowance to the professors, &c. of 50*l.* a year in respect of the examinations for direct commissions, *ib.* 639. 641. 653–657. 746——System of progressive increase in the professors' salaries, *ib.* 646, 647——Salaries and emoluments of the four college clerks who are employed in the several offices, *ib.* 665–674.

Propriety of the professors of the junior department being more liberally paid, *Sir H. Douglas* 2221–2223——The Committee are not prepared to recommend any reduction of the present salaries, *Rep. p.* iv.

See also *Chaplain. Governor. Lieutenant-Governor. Secretary.*

Sapping and Mining. Instruction in sapping and mining; advantages thereof, *Prosser* 201. 280. 284. 318, 319——Expense of instruction in sapping and pontooning, and of materials, &c., *Houndle* 660–664——Importance of sapping and mining being introduced into the final examination, *Adams* 1019–1023——Reference to the slight expense incurred under the head of the riding-school, and entrenching, sapping, and pontooning, &c., *ib.* 1270–1273——Practical mode of instruction in sapping and mining, *Adams* 1318, 1319; *Sir H. Douglas* 2202. 2205, 2206——Facilities in the senior department for sapping and mining operations, *Sir H. Douglas* 2302.

Second Class. Reference to the second class of cadets in which annual payments of 50*l.*, 70*l.*, and 80*l.* are made, *Rep. p.* vii.

Secretary.

Report, 1855—*continued.*

Secretary. Witness has been secretary since 1837 to the Commissioners of the college, *Houndle* 532, 533——Duties of witness, *ib.* 534–537. 567. 572. 581——Amount of his salary as secretary, *ib.* 538. 737——He is also chief clerk in the Adjutant-general's office, *ib.* 539. 540. 738. 739——Explanation as to the amount of witness's salary, 150*l.* a year, *ib.* 737.

Recommendation that on the next vacancy the salary of the secretary be reduced to 100*l.* a year, *Rep. p.* iv.

Self-support. There is no Government grant to the college for any purpose, *Prosser* 50——Large number in the 125*l.* class adverted to as enabling the establishment to be self-supporting, *ib.* 116, 130–140——Respects in which the self-supporting character of the college interferes with the discipline and the proper carrying on of the studies, *Adams* 1099, 1100. 1125–1128——Decided objection to the college being self-supporting through the very large subscriptions required from the sons of private gentlemen, the large proportion of which class in the college is a practical exclusion of the poorer classes, *Sir H. Douglas* 2230–2236. 2243. 2252, 2253, 2271, 2272.

Senior Department:

1. *Date and Origin of Establishment.*
2. *Admission.*
3. *Number of Students.*
4. *Course of Instruction; Amendments suggested.*
5. *Staff for imparting Instruction.*
6. *Staff Appointments given or to be given to Officers passing through the Department.*
7. *Parliamentary Aid recommended.*

1. *Date and Origin of Establishment:*

Origin of the establishment of the departments at High Wycombe in 1799, *Sir H. Douglas* 2286. 2313——It was originated by General Le Marchant, *ib.*——Until the establishment of the department there was no institution in England for teaching the practical duties of the staff, *ib.* 2306, 2307——Establishment of the senior department adverted to by the Committee; purpose for which created, *Rep. p.* iii. viii.

2. *Admission:*

Officers are not admitted from regiments on foreign service, *Prosser* 378. 410. 421; *Wetherall* 1892——Any cadets particularly distinguished should go at once to the senior department, *Adams* 1297——All officers above the rank of captain should be excluded from the senior department, *Wetherall* 1879, 1880——The officers are almost always on full pay, *ib.* 1891.

Desirableness of permitting officers whose regiments are abroad to enter the college, *Sir H. Douglas* 2320. 2361, 2362——Means for preventing the appointment to the senior departments of more than one officer from the same regiment, *ib.* 2340–2342——Officers of all ranks should be admissible, *ib.* 2343–2345——Instances of officers having come to the college without seriously intending to study; check upon this abuse, *ib.* 2362–2365.

3. *Number of Students:*

Explanation as to there being only fifteen officers at present studying in the department, *Prosser* 375–380. 471, 472——There were thirty officers in the senior department previously to 1825, and fifteen since that period, paying at the rate of thirty guineas a year, *Houndle* 750——Vacancies in the senior department, probable causes, *Adams* 1252, 1253——The number of students should be increased to thirty, *Wetherall* 1881. 2002; *Sir H. Douglas* 2337. 2356——Alteration in the senior department in 1820, when the number was reduced from thirty to fifteen, *Sir H. Douglas* 2189. 2210. 2281, 2282——Limited number of officers lately at the college adverted to, as owing probably to the fact of so few staff appointments being given to those obtaining certificates there, *ib.* 2366, 2367.

4. *Course of Instruction; Amendments suggested:*

Entrance examination, and course of study, &c. of the officers, *Prosser* 381 *et seq.*; *Addison* 906. 909–913——Insufficiency of the study considered with a view to its improvement, *Prosser* 398. 402–408. 422 *et seq.*——Improvement of late years in the course of instruction, *ib.* 401. 422——Importance of the education given as a preliminary to the formation of a good staff officer, *ib.* 457–461.

Insufficiency of the education in regard to staff duties, *Addison* 825——Consideration of the steps necessary to induce high qualifications in staff officers coming from the college, *ib.* 909–913. 925 *et seq.*——Suggested alterations in the course of instruction, *Adams* 1237–1242. 1304, 1305.

Report, 1855—*continued.*

SENIOR DEPARTMENT—continued.

4. *Course of Instruction; Amendments suggested*—continued.

Considerable advantage of Sandhurst as a means of imparting scientific acquirements for the staff, *Sir John Burgoyne* 1385-1390. 1445-1449——Advantage if the senior department at Sandhurst studied also at Aldershott, Woolwich and Chatham, *ib.* 1405, 1406——Desirableness of an extension of the senior department with a view to the diffusion of scientific military knowledge among officers generally, *ib.* 1469-1471——Advantage of the officers studying also at Woolwich and Chatham, *Wetherall* 1886-1890.

Advantage of encouraging the highest degree of education, *Sir H. Douglas* 2222——Objections formerly made by witness and now repeated, against the reduction in the department in 1820, and against its transfer to Sandhurst, *ib.* 2283-2285. 2314-2318——Programme of the instruction when the department was established, *ib.* 2287——Present programme of instruction, *ib.* 2288——Approval of the course of study as amply sufficient, and as at the same time necessary generally for an accomplished staff officer, *ib.* 2298, 2299. 2336. 2359——Instance of a general officer having stayed three days at the college, in order to learn something about sieges, *ib.* 2344.

Further suggestions by Major Addison, for the conduct of the department, *App. p.* 192.

Value attached to the department, *Rep. p.* viii——Suggestions in order that the officers may become acquainted with all the branches of the profession, *ib.* ix.

5. *Staff for imparting Instruction:*

Importance of a military staff specially for the senior department, as was origiually the case, *Godwin* 2141-2147. 2155-2175; *Sir H. Douglas* 2285——Unsatisfactory constitution of the present staff, *Rep. p.* viii, ix——Suggested appointment of a military officer on the staff of the department, *ib.* ix.

6. *Staff Appointments given or to be given to Officers passing through the Department:*

Several appointments from Sandhurst to the staff in the Crimea, *Prosser* 453-455——Witness was formerly in the senior department at Sandhurst, and obtained a first-class certificate, *Addison* 759, 760——Small number of those passing through the departments who obtain staff appointments, *ib.* 960-962——Explanation relative to witness's appointment to the staff, *ib.* 963-965.

Witness was for three years in the senior department when at Farnham, and took a first-class certificate, *Wetherall* 1707-1709. 1712——Instances of distinguished officers who passed through the senior department, *ib.* 1846, 1847——Preference as regards staff appointments given lately, but not in former years, to officers at the senior department, *ib.* 1848-1863.

Number of officers who have passed through the department, and have obtained certificates, *Sir H. Douglas* 2289, 2290. 2292——Number of officers with certificates now employed on the staff, *ib.* 2293, 2294——Efficiency of the staff during the Peninsular war; list of distinguished officers from the senior department who served in that war, *ib.* 2308-2310——Employment in the Peninsula of several officers from the senior department, on the recommendation of witness, *ib.* 2309.

As a general rule, officers for the staff should be selected from Sandhurst; exceptions which might be advisable, *Addison* 915. 922-924——All officers passing the highest examination should be appointed, as vacancies occurred, to the quartermaster-general's staff, *Adams* 1256, 1257——Slight increase necessary in the senior department, if all the staff were supplied from it, *ib.* 1274, 1275——All staff appointments should be made from the college, *ib.* 1278, 1279.

Objection to its being compulsory to select all staff officers from the senior department at Sandhurst, *Sir John Burgoyne* 1393-1395. 1400, 1401. 1409, 1410. 1438-1452. 1469-1471. 1483; *Wetherall* 1864-1875. 1898-1905——It would be very desirable to appoint all staff officers from the department, *Sir H. Douglas* 2324——Witness is hardly prepared, however, to recommend that all staff appointments should of necessity be made from the department, *ib.* 2324. 2355.

Expediency, if officers be properly qualified at the senior department, of their not being neglected in appointments to the staff, *Rep. p.* ix.

7. *Parliamentary Aid recommended:*

An annual sum of 10,000 *l.* or 15,000 *l.* in aid of the department would not be at all mis spent, *Addison* 958.

Expediency of Parliamentary aid towards the conduct of the department, which at present is very improperly a charge upon the junior department, *Rep. p.* ix——The Committee

Report, 1855—*continued.*

Senior Department—continued.

7. *Parliamentary Aid recommended*—continued.

Committee cannot recommend that the payment of 30 *l.* a year to the officers be increased, *Rep. p.* ix.

See also *Accommodation. Age of Admission*, 2. *Aides-de-Camp. Aldershott. Belgium. Cavalry Instruction. Certificates* (*Senior Department*). *Chatham. Etat-major* (*France*). *Examinations*, II. *Examiners. Horsemanship. Land Transport Corps. Married Officers. Military Science. Napier, Sir Charles* (*the late*). *Narrien, Mr. Period of Study. Professors. Separation of Departments. Staff Officers.*

Separation of Departments. Propriety of a separation of the senior and junior departments, *Addison* 973. 975; *Wetherall* 1825–1830; *Sir H. Douglas* 2284. 2316, 2317.

See also *Aldershott.*

Servants. Allowance for servants to each officer in the college at the rate of 1 *s.* 6 *d.* a day for each servant, *Houndle* 618. 623–626——Allowance of 247 *l.* 1 *s.* for servants for nine staff officers for the year ending 31 March 1859, *ib.* 617——Wages, &c., of the domestic servants, *ib.* 675–680.

Sketching. Advantage of learning rapid sketching instead of making elaborate surveys as at present, *Addison* 909–913. 952, 953——Practice as to the use of vertical lines and horizontal lines in sketching, *Adams* 1042, 1043.

Staff of College. Favourable impression of the Committee as to the manner in which the staff of the college perform their duties, *Rep. p.* x.

See also *Chaplain. Governor. Lieutenant-governor. Major and Superintendent of Studies. Professors. Salaries, &c. Secretary. Senior Department*, 5.

Staff Officers:

1. *Generally as to System and Qualifications.*
2. *Special Staff Corps.*
3. *Staff in the Crimea.*

1. *Generally as to System and Qualifications:*

Qualification necessary to make a good staff officer besides his acquirements at the senior department at Sandhurst, *Prosser* 400–402. 445–447. 455——Want of recognised books in the English language on staff duties, *Prosser* 436–441; *Addison* 826–833; *Sir J. Burgoyne* 1477–1482——Suggestion that officers before receiving staff appointments should prove their efficiency as supernumeraries, *Prosser* 477–480——So long as an officer is fit to pass a final examination for the staff it should not matter how or where he qualified himself, *Addison* 838–842.

Necessity of young and vigorous officers on the staff, *Adams* 1233. 1235——Officers after leaving the senior department should be attached to an infantry regiment, and a cavalry regiment, before appointment to the staff, *ib.* 1256. 1286–1289——Staff officers should be selected for their cleverness, but should also possess physical fitness, *ib.* 1277. 1278. 1282–1284——Course to be taken in the event of the inefficiency of any officer appointed to the staff, *ib.* 1280, 1281.

Witness considers that the best foundation for a staff officer is being a good practical soldier, *Sir J. Burgoyne* 1383. 1386, 1393–1395. 1443, 1466–1468——Advantage of education and theoretical knowledge in addition to other attainments, *ib.* 1383–1386. 1390–1392. 1407, 1408, 1411, 1412. 1430–1432. 1445–1449, 1552. 1569——Different qualifications required for the three different classes in the staff, *Sir J. Burgoyne* 1390. 1391. 1401, 1407, 1408. 1439–1444. 1481; *Wetherall* 1866–1878. 1915——Obstacles to attaching officers intended for the staff to the different branches of the army, as in the French service, *Sir J. Burgoyne* 1462–1465.

Decided objection to the arrangement of the English staff, *Godwin*, 2139——Staff system in Belgium recommended for imitation, *ib.* 2145 *et seq.*

Suggestions with a view to prevent the appointment of inefficient staff officers, *Sir H. Douglas* 2323–2325. 2335 *et seq.*——System recommended for adoption in order to confer upon the British army the advantages which have been conferred upon the French army by the special staff corps, and the special school, *ib.* 2335 *et seq.*——After obtaining a certificate from the senior department, each infantry officer should serve with a cavalry regiment, and should subsequently study at Woolwich, after which he should receive a diploma if proved fit for staff employment, *ib.* 2335. 2358——Anticipation that during the next peace the army will be in a more organised state as regards to staff officers, &c. than during the late peace, *ib.* 2353, 2354.

Letter from Lieutenant-Colonel Adams, dated 10 May, containing a further statement of his views in regard to staff officers, *App. p.* 189.

Report, 1855—*continued.*

Staff Officers—continued.

2. *Special Staff Corps:*

Expediency to a certain extent of a system of staff instruction in the British service as in the French for a special staff corps, *Prosser* 365. 444——Objection to a corps in the English service like that of the *Etat-major* in France, *Addison* 834; *Sir H. Burgoyne* 1396. 1416, 1417; *Sir H. Douglas* 2322. 2335——Objection to all staff appointments being necessarily made from those who have passed through the senior department, or from a special staff corps, *Sir J. Bourgoyne* 1393 *et seq.*; *Wetherall* 1864–1875, 1898–1902. 1904, 1905.

Attention of the military authorities called to the question of a separate staff corps, *Rep. p.* ix, x.

3. *Staff in the Crimea:*

Several appointments have been made from Sandhurst to the staff in the Crimea, *Prosser* 453–455——Selection of staff officers by Lord Raglan adverted to; excellent character of his personal staff, *Sir J. Burgoyne* 1400. 1402, 1403. 1410. 1430. 1450——Acquaintance of the staff in the Crimea with the French language, *ib.* 1413. 1418, 1419——Witness did not see any difference between the qualifications of staff officers from Sandhurst, and those who had not been there, *ib.* 1415.

See also *Belgium. Bridges. Etat Major* (*France*). *Examinations*, II. *Indian Army. Senior Department.*

Staff Sergeants. See *Discipline.*

Stammerers. Impropriety of admitting to the college, or giving commissions to boys who stammer in their speech, *Adams* 990–997. 1007, 1008. 1203.

Stationery. Particulars relative to the mode of supply of the stationery; advantage if furnished by the Stationery-office on requisition, *Houndle* 689–706.

Recommendation by the Committee that the stationers be procured through the Stationery-office, *Rep. p.* iv.

Strategy. Contemplated teaching of strategy and tactics to a greater extent than at present, *Addison* 819–824——Restrictions at Sandhurst upon instruction in tactical and strategical positions, *Adams* 1290–1294.

Subscriptions. Payment by the first class of 40*l.* per annum, by the second class of 50*l.*, 70*l.*, or 80*l.* per annum, and by the third class of 125*l.* per annum, *Prosser* 74; *Rep. p.* vii.

The subscriptions of the cadets are paid into the Bank of England, and thence drawn out by witness under an order of the Board, *Houndle* 535, 536. 567——Payment of the cadets' subscriptions from the period of entry to the paymaster, *ib.* 575.

Rate of payment (30*l.* a year) by the officers adverted to; it might perhaps be increased to 40*l.*, *Addison* 958——The Committee cannot recommend any increased payment in the senior department, *Rep. p.* ix.

Superannuations. Very few superannuations annually, *Prosser* 126——Deduction of contribution to the superannuation fund before the income-tax is stopped from the salaries of the college officers, *Houndle* 584. 740——Return showing the deductions, *ib.* 584.

Surveying. Knowledge of field surveying comprised in the course of study; its importance, *Prosser* 161. 171–175. 181. 247. 280. 318, 319. 384——Practical instruction given in military surveying, *Sir H. Douglas* 2202.

Swimming. Disadvantage in the cadets not being taught to swim, *Prosser* 209–211; *Adams* 1264–1267.

T.

Tasks. Difficulty of a system of tasks as a means of judging of ability, *Prosser* 518.

Theoretic Instruction. Insufficiency of mere theoretic knowledge, however well imparted, to make a good officer, *Prosser* 298–317——Too much theory and too little practice in the course of study, *Wetherall* 1718–1720. 1722. 1727, 1728. 1743–1747. 1756–1759.

Third Class. The sons of private gentlemen and noblemen pay 125*l.* a year, *Prosser* 74; *Rep. p.* vii——Consideration of the system of charging the first-class cadets 125*l.* a year besides extras, *Adams* 1189–1208——Necessity, in order to be self-supporting, for the college to have a large number of the third class, *Rep. p.* vii.——*See* also *Self-support.*

Trigonometry. Course of study and final examinations in trigonometry, considered, *Prosser* 161–176. 181. 247. 280. 384——Course of trigonometry recommended for the final examinations, *Adams* 1068. 1304, 1305.

Report, 1855—*continued.*

V.

Virgil. Nature of the examinations in Virgil, *Cole* 2022. 2048. 2076.

W.

Wellington, Duke of (the late). The system of examination for commissions was established by the Duke of Wellington a few years before his death, *Wetherall* 1988-1990.

Wetherall, Major-General George Augustus. (Analysis of his Evidence.)—Was for three years in the senior department when at Farnham, and took a first class certificate, 1707-1709. 1712——Is adjutant-general, and *ex-officio* a commissioner of the college, 1710, 1711——Considerable advantage to young men in being educated in the junior department, 1714-1717——Too much theory and too little practice in the course of study, 1718-1720. 1722. 1727, 1728. 1743-1747. 1756-1759——Cadets should not be admitted before fifteen years of age, and should remain for two or three years, 1720, 1721. 1723. 1760-1762. 1769. 1780-1785. 1816-1823——The education of a gentleman should be given, without reference to anything but a few indispensable professional acquirements, 1722——Age at which commissions are generally given, 1723, 1724; 1784, 1785.

Presence of a quorum of the commissioners at the examinations, 1725, 1726——Non-interference by the Commissioners with the course of study; composition of the Board adverted to hereon, as showing that the *ex-officio* members rarely attend at the college, 1729-1742. 1751-1753——Suggestions for amending the present course of study in history, 1746, 1747. 1763-1766——Course of mathematics in the senior department adverted to, 1748, 1749——Recommended alteration in the system of discipline as regards *espionage* by the sergeants, 1750. 1767, 1768.

The governor should be made more responsible for the cousse of study, 1754, 1755——Propriety of a gratuitous orphan class at the college, 1770-1774——Though extremely difficult for young men to live in the army without independent means, witness has known many instances of men living on their pay and saving money out of it, 1774——Necessity of checking extravagance in regiments, 1775——Sufficiently military character of the education of cadets, 1776-1780.

Advantage in officers being educated at Sandhurst, 1786. 1791-1794——Objection to rendering it compulsory upon all candidates for the army to pass through Sandhurst, 1787-1790. 1812——Sufficiency of the education at public schools for officers entering the line, 1791. 1813——Advisability of line officers being conversant with artillery; opportunities for instruction hereon, 1795-1808——Advantage if orphans of officers were, after education at Sandhurst, appointed to situations in the Government offices, 1809——Propriety of paying for the army outfit of the orphan class, 1810——Boon to officers if the numbers of the 40 *l.* class were doubled, 1811.

Advantage if officers before being promoted were obliged to study, and to undergo a certain examination; insufficient examination at present before promotion, 1813-1815. 1948-1987. 2001——Expediency of separating the senior from the junior department, 1825-1830——Sufficiency of the entrance examination for the senior department, 1831. 1834. 1896, 1897——Course of study for the half-yearly examinations in the department, 1832, 1833——Recommended increase of professors for the department, 1835, 1836——French and German should be studied by the officers, 1837-1840——Military history, also, should be specially studied, 1841, 1842.

Sufficiency of the final examination in the senior department, 1843——Advantage if the professors were not the examiners, 1844, 1845——Instances of distinguished officers who passed through the senior department, 1846, 1847——Preference, as regards staff appointments, given lately, but not in former years, to officers at the senior department, 1848-1863——Objection to all staff appointments being necessarily made from those who had passed through the senior department, or from a special staff corps, 1864-1875. 1898-1902. 1904, 1905——Qualifications requisite in officers for the different classes of the staff, 1866-1878. 1915.

All officers above the rank of captain should be excluded from the senior department, 1879, 1880——The number of students should be increased to thirty, 1881. 2002——The department should be removed to the neighbourhood of Aldershott, 1882-1885——Advantage of the officers studying also at Woolwich and Chatham, 1886-1890——The officers are almost always on full pay, 1891——They are not admitted if their regiment is abroad, 1892——Instances of married officers coming to the department for the sake of convenience instead of study, 1893-1897. 1903.

Waste of time at the college in the execution of highly finished drawings, 1906, 1907——Insufficient knowledge of French required in the junior department, 1908-1914——Expediency of removing the present restriction in regard to the amount of pocket money allowed to the cadets by their parents, 1916-1925——Good horsemanship should be compulsory in staff officers, 1926-1928——Practice with regard to the keeping of horses in the senior department, 1929-1933.

Report, 1855—*continued.*

Wetherall, Major-General George Augustus. (Analysis of his Evidence)—continued.

The Commissioners are not present at the examinations for direct commissions, 1934-1936——Fair manner in which the Horse Guards act in the event of the examination of any boy being a failure on some points, 1937-1939. 1991-1997——A certificate that each candidate for the army had received the education of a gentleman, should be quite sufficient without any examination, 1940-1947——Plan recently proposed by Mr. Sidney Herbert for enabling officers at the principal military stations to improve themselves by study, and for establishing an examination before promotion; approval in the main of this plan, 1961-1987. 2001.

The system of examination for commissions was established by the Duke of Wellington a few years before his death, 1988-1990——Propriety of the standard of examination being the same in peace as in war, 1997——Rare instances of the promotion of officers being delayed because of inability to pass the required examination, 1998-2000——Desirableness and practicability of junior ensigns studying for a period at Sandhurst before joining their regiments, 2003-2011.

Woolwich. Advantage of Woolwich over Sandhurst as a locality for the college, *Addison* 976, 977——Objection to Woolwich as a locality for the senior departments, *Adams* 1296.

Woolwich Academy. The age of entrance at Woolwich is from fourteen to sixteen, *Prosser* 206——The highest class at Woolwich pay 120*l.* a year, *ib.* 207——Suggestion that Woolwich and other places, as well as Sandhurst, might furnish a quota of officers for the line, *Adams* 1212. 1217-1220——Disadvantage to cadets in transferring them, if meritorious, to Woolwich, *ib.* 1298——Fallacious character of the examination for the artillery, *Sir J. Burgoyne* 1495, 1496.